

# The Gazette of India

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**NOTICE**

The Undermentioned Gazettes of India Extraordinary were published upto the 27th October, 1961 :—

Issue No.	No. and Date	Issued by	Subject
267.	S.O. 2519, dated 20th October, 1961.	Ministry of Information and Broadcasting.	Approval of films specified therein.
268.	S.O. 2520, dated 21st October, 1961.	Do.	Approval of films specified therein.
269.	S.O. 2521, dated 23rd October, 1961.	Do.	Approval of films specified therein.
270.	S.O. 2558, dated 25th October, 1961.	Election Commission, India.	Designating Returning Officer and Assistant Returning Officers in Gujarat State in the Constituencies given therein.
271.	S.O. 2559, dated 27th October, 1961.	Ministry of Home Affairs.	President nominates Shri Chubatoshi Jamir to fill the seat in the House of the People—Tuensang Area.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

**PART II—Section 3—Sub-section (ii)**

**Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).**

**MINISTRY OF HOME AFFAIRS**

*New Delhi, the 28th October 1961*

**S.O. 2562.**—In exercise of the powers conferred by entry 3(b) of the table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is

pleased to specify Rani Hemant Kumari Ju Deo, wife of the Ruler of Dhurwal, for the purpose of that entry, and directs that the exemption shall be valid in respect of one gun/rifle and one pistol/revolver.

[No. 16/5/61-P.IV.]

S. K. SINGH, Under Secy.

*New Delhi, the 30th October 1961*

**S.O. 2563.**—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Central Civil Services (Classification, Control and Appeal) Rules, 1957, namely:—

1. These rules may be called the Central Civil Services (Classification, Control and Appeal) Sixth Amendment Rules, 1961.

2. In Part III of the Schedule to the Central Civil Services (Classification, Control and Appeal) Rules, 1957, against "Central Secretariat Clerical Service, Grades I and II", in column 3, after item "(1) Ministry of Law" and the entries relating thereto, the following shall be inserted, namely:—

3	4	5
“(m) Central Water and Power Commission	Secretary, Central Water and Power Commission.	(i) to (iii) Chairman, Central Water and Power Commission.”

[No. F.7/20/61-Ests.(A).]

T. C. A. RAMANUJACHARI, Dy. Secy.

## MINISTRY OF FINANCE

### (Department of Expenditure)

*New Delhi, the 18th October 1961*

**S.O. 2564.**—In pursuance of clause (3) of article 77 of the Constitution and of all other powers enabling him in this behalf, the President is pleased to make the following amendment in the Delegation of Financial Powers Rules, 1958 (published as S.O. 2614 in the Gazette of India dated the 20th December, 1958), namely:—

#### **Amendment No. 98—**

I. In the said rules, the existing Rule 15 may be substituted as follows:—

“15. *Sanction or consent of the Finance Ministry.*—Subject to any general or special orders issued by the Finance Ministry in this regard, wherever the consent or sanction of the Finance Ministry is required under these rules, such consent or sanction shall be expressed in writing and communicated to the audit officer or officers concerned by that Ministry”.

II. In the said rules, the existing Rule 16(1) may be substituted as follows:—

“16. *Communication of financial sanctions.*—(1) Subject to any general or special orders issued by the Finance Ministry in this regard, all orders sanctioning expenditure or advance of public money issued by a Department of the Central Government in exercise of the powers conferred on it by these rules shall be communicated to the audit officer or officers concerned over the signature of the Financial Adviser of the Department.

Provided that the provisions of this rule shall not apply to a sanction which could have been issued by such Department under its own powers exercisable by it immediately before the 20th August, 1958.”

(This amendment takes effect from the 14th September, 1961).

[No. F.12(28)-EII(A)/61.]

New Delhi, the 26th October 1961

**S.O. 2565.**—In pursuance of clause (3) of article 77 of the Constitution and of all other powers enabling him in this behalf, the President is pleased to make the following amendments in the Delegation of Financial Powers Rules, 1958 (published as S.O. 2614 in the Gazette of India dated the 20th December, 1958) namely :—

**Amendment No. 99**

In Schedule VII to the Rules, against the item " Loss of revenue " in column 1,

(A) the following entries may be substituted for the existing entries (ii) and (iii) in columns (2) and (3) :—

(ii) Collectors of Customs, Bombay,  
Calcutta and Madras,

(a) Full powers for abandonment of irrecoverable amounts of fines and penalties imposed under the Sea Customs Act.

(b) Other cases . . . . . Rs. 1,000.

(iii) Collectors of Central Excise

(a) Full powers for abandonment of irrecoverable amounts of fines and penalties imposed under the Sea Customs Act, the Land Customs Act and the Central Excises and Salt Act.

(b) Other cases—

(1) arising under the Central Excises and Salt Act . . . . . Rs. 2,000.

(2) arising under the Land Customs Act and the Sea Customs Act Rs. 1,000.

(3) Cases not covered by (1) and (2) above  
Rs. 1,000.

(B) the following may be inserted as a new entry in columns 2 and 3 :—

(iv) Collector of Customs and Central Excise, Cochin.

(a) Full powers for the abandonment of irrecoverable fines and penalties imposed under the Sea Customs Act, Land Customs Act and the Central Excises and Salt Act.

(b) Other cases —

(1) arising under the Central Excises and Salt Act . . . . . Rs. 2,000.

(2) arising under the Land Customs Act and Sea Customs Act . . . Rs. 1,000.

(3) Cases not covered by (1) and (2) above . . . . . Rs. 1,000.

The exercise of powers in respect of cases of write off of irrecoverable amounts of revenue (customs duty and excise duty) and abandonment of irrecoverable amounts of fines and penalties arising under the Sea Customs Act, the Land Customs Act, and the Central Excises and Salt Act will be subject to a report being made to the Accountant General concerned in accordance with the provisions of paragraph 37 of the General Financial Rules Volume I.

[No. F. 12(31)-E.II(A)/61.]

C. R. KRISHNAMURTHI, Dy. Secy.

(Department of Economic Affairs)

New Delhi, the 24th October 1961

**S.O. 2566.**—In exercise of the powers conferred by sub-section (2) of Section 45 of the Banking Companies Act (10 of 1949), the Central Government hereby extends the period of moratorium granted by it in respect of the Pratap Bank Ltd., Delhi, up to and including the 17th December, 1961.

[No. F.4(118)-BC/61(I).]

R. K. SESHADRI, Dy. Secy.

## (Department of Economic Affairs)

New Delhi, the 28th October 1961

**S.O. 2567.**—In exercise of the powers conferred by Clause (a) of sub-section (2) of section 72 of the States Reorganisation Act, 1956 (37 of 1956), the President hereby declares:—

(a) that from and out of the Consolidated Fund of the State of Madhya Pradesh, the sums specified in column 3 of the Schedule annexed to this notification amounting in the aggregate to the sum of two crores, seventy seven lakhs, ten thousand, six hundred and one rupees shall be deemed to have been duly authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1955, in excess of the amount granted for those services and for that year; and

(b) that the sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of the State of Madhya Pradesh under this notification shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1955.

## THE SCHEDULE

Sl. No.	Service and purpose	Excess		
		Voted	Charged	Total
		Rs.	Rs.	Rs.
(1)	(2)	(3)		
1	1—Land Revenue . . . . .	..	1,000	1,000
2	7—Other Taxes and Duties . . . . .	22,600	..	22,600
3	14—District Administration . . . . .	..	270	270
4	15—Administration of Justice . . . . .	15,881	..	15,881
5	17—Police . . . . .	5,13,674	..	5,13,674
6	27—Aviation . . . . .	4,196	..	4,196
7	29—Civil Works . . . . .	2,68,52,148	..	2,68,52,148
8	31—Privy Purses and Allowances . . . . .	5,787	..	5,787
9	34—Miscellaneous (excluding expenditure on Dis- placed persons, . . . . .	..	58,348	58,348
10	Interest on Debt and other Obligations . . . . .	..	2,36,697	2,36,697
TOTAL . . . . .		2,74,14,286	2,96,315	2,77,10,601

[No. F. 21(13)-B/58.]

**S.O. 2568.**—In exercise of the powers conferred by Clause (a) of sub-section (2) of section 72 of the States Reorganisation Act, 1956 (37 of 1956), the President hereby declares:—

(a) that from and out of the Consolidated Fund of the State of Madhya Bharat, the sums specified in column 3 of the Schedule annexed to this notification amounting in the aggregate to the sum of eight lakhs, one thousand, three hundred and forty-nine rupees shall be deemed to have been duly authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1955 in excess of the amounts granted for those services and for that year; and

(b) that the sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of the State of Madhya Bharat under this notification shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1955.

THE SCHEDULE

Sl. No.	Service and purpose	Excess		
		Voted	Charged	Total
		Rs.	Rs.	Rs.
(1)	(2)	(3)		
1	7—Other Taxes and Duties . . . . .	26,391	..	26,391
2	12—Administration of Justice . . . . .	47,326	..	47,326
3	14—Police . . . . .	3,54,342	..	3,54,342
4	27—Road Transport Schemes . . . . .	43,568	..	43,568
5	29—Civil Works (Establishment charges) . . . . .	88,779	..	88,779
6	33—Superannuation Allowances and Pensions . . . . .	2,12,701	15	2,12,716
7	44—Payment to Retrenched Personnel . . . . .	28,227	..	28,227
TOTAL . . . . .		8,01,334	15	8,01,349

[No. F. 21(13)-B /58.

S.O. 2569.—In exercise of the powers conferred by Clause (a) of sub-section (2) of section 72 of the States Reorganisation Act, 1956 (37 of 1956), the President hereby declares:—

(a) that from and out of the Consolidated Fund of the State of Vindhya Pradesh, the sums specified in column 3 of the Schedule annexed to this notification amounting in the aggregate to the sum of four lakhs, fortyfour thousand, two hundred and thirty rupees shall be deemed to have been duly authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1955, in excess of the amounts granted for those services and for that year; and

(b) that the sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of the State of Vindhya Pradesh under this notification shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1955.

THE SCHEDULE

Sl. No.	Service and purpose	Excess		
		Voted	Charged	Total
		Rs.	Rs.	Rs.
(1)	(2)	(3)		
1	4—Stamps . . . . .	17,431	..	17,431
2	6—Registration . . . . .	1,346	..	1,346
3	7—Charges on account of Motor Vehicles Act . . . . .	15,420	..	15,420
4	8—Other Taxes and Duties . . . . .	3,070	..	3,070
5	10—General Administration . . . . .	2,34,295	5,408	2,39,703
6	11—Administration of Justice . . . . .	72,002	..	72,002
7	14—Scientific Departments . . . . .	3,137	..	3,137
8	25—Working Expense of Electricity Schemes . . . . .	19,512	..	19,512
9	28—Superannuation Allowances & Pensions etc. . . . .	5,644	..	5,644
10	30—Miscellaneous . . . . .	..	226	226
11	37—Purchase of Foodgrains . . . . .	66,739	..	66,739
TOTAL . . . . .		4,38,596	5,634	4,44,230

[No. F. 21(13)-B/58.]

**S.O. 2570.**—In exercise of the powers conferred by Clause (a) of sub-section (2) of section 72 of the States Reorganisation Act, 1956 (37 of 1956), the President hereby declares:—

- (a) that from and out of the Consolidated Fund of the State of Bhopal, the sums specified in column 3 of the Schedule to this notification amounting in the aggregate to the sum of eighteen lakhs, nintyseven thousand, two hundred and fiftyseven rupees shall be deemed to have been duly authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1955, in excess of the amounts granted for those services and for that year; and
- (b) that the sums deemed to have been authorised to be paid and applied from and out of the consolidated Fund of the State of Bhopal under this notification shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1955.

#### SCHEDULE

S. No.	Service and purpose	Excess		
		Voted Rs.	Charged Rs.	Total Rs.
1	2		3	
1.	4—Civil Works	18,28,626	..	18,28,626
2.	5—Electricity Schemes	68,631	..	68,631
	TOTAL	18,97,257	..	18,97,257

[No. F. 21(13)-B/58.]

**S.O. 2571.**—In exercise of the powers conferred by Clause (a) of sub-section (2) of section 72 of the States Reorganisation Act, 1956 (37 of 1956), the President hereby declares:—

- (a) that from and out of the Consolidated Fund of the State of Madhya Pradesh, the sums specified in column 3 of the Schedule annexed to this notification amounting in the aggregate to the sum of eight lakhs, twentyone thousand, six hundred and sixteen rupees shall be deemed to have been duly authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1956, in excess of the amounts granted for those services and for that year; and
- (b) that the sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of the State of Madhya Pradesh under this notification shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1956.

#### THE SCHEDULE

Sl. No.	Service and purpose	Excess		
		Voted Rs.	Charged Rs.	Total Rs.
(1)	(2)		(3)	
1	16—Administration of Justice	53,690	..	53,690
2	40—Transfer to Development Fund	3,90,307	..	3,90,307
3	Other Revenue Expenditure connected with Electricity Schemes	1,010	..	1,010
4	45—Capital outlay on Schemes of Government Trading	3,76,609	..	3,76,609
	TOTAL	8,21,616	..	8,21,616

[No. F. 21 (13)-B/58.]

**S.O. 2572.**—In exercise of the powers conferred by clause (a) of sub-section (2) of section 72 of the States Reorganisation Act, 1956 (37 of 1956), the President hereby declares:—

- (a) that from and out of the Consolidated Fund of the State of Madhya Bharat, the sums specified in column 3 of the Schedule annexed to this notification amounting in the aggregate to the sum of fifty seven lakhs, eighty thousand, nine hundred and eighty nine rupees shall be deemed to have been duly authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1956, in excess of the amounts granted for those services and for that year; and
- (b) that the sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of the State of Madhya Bharat under this notification shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1956.

THE SCHEDULE

Sl. No.	Service and purpose	Excess		
		Voted Rs.	Charged Rs.	Total Rs.
(1)	(2)		(3)	
1	11—General Administration (Parliament and State Legislature)	..	113	113
2	14—Police	12,61,522	..	12,61,522
3	20—Agriculture Food Production Drive	1,65,500	..	1,65,500
4	31—Famine	1,03,286	..	1,03,286
5	35—Stationery and Printing	5,77,109	..	5,77,109
6	Public Debt	..	36,73,459	36,73,459
TOTAL		21,07,417	36,73,572	57,80,989

[No. F. 21(13)-B/5]

**S.O. 2573.**—In exercise of the powers conferred by clause (a) of sub-section (2) of section 72 of the States Reorganisation Act, 1956 (37 of 1956), the President hereby declares:—

- (a) that from and out of the Consolidated Fund of the State of Vindhya Pradesh, the sums specified in column 3 of the Schedule annexed to this notification amounting in the aggregate to the sum of thirty lakhs, forty-five thousand, three hundred and twenty seven rupees shall be deemed to have been duly authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1956, in excess of the amounts granted for those services and for that year; and
- (b) that the sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of the State of Vindhya Pradesh under this notification shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1956.

THE SCHEDULE

Sl. No.	Service and purpose	Excess		
		Voted Rs.	Charged Rs.	Total Rs.
(1)	(2)		(3)	
1	4—Stamps	5,434	..	5,434
2	10—General Administration	39,208	3,556	42,764
3	13—Police	55,922	..	55,922

(1)	(2)	(3)	
4	15—Education . . . . .	4,06,487	4,06,487
5	16—Medical . . . . .	94,084	94,084
6	18—Agriculture . . . . .	1,12,261	1,12,261
7	23—Civil Works (Communications) . . . . .	16,172	16,172
8	25—Receipts from Electricity Schemes—Deduct Working Expenses . . . . .	11,976	11,976
9	26—Capital Outlay on Electricity Schemes . . . . .	5,559	5,559
	27—Famine . . . . .	5,063	5,063
11	30—Superannuation Allowances and Pensions . . . . .	13,116	13,116
12	39—Capital Account of Civil Works outside the Revenue Account (Communications) . . . . .	55,039	55,039
13	Public Debt . . . . .	22,21,450	22,21,450
TOTAL . . . . .		8,20,321	30,45,327

[No. F. 21 (13)-B/58.]

S.O. 2574.—In exercise of the powers conferred by clause (a) of sub-section (2) of section 72 of the States Reorganisation Act, 1956 (37 of 1956), the President hereby declares:—

(a) that from and out of the Consolidated Fund of the State of Bhopal, the sums specified in column 3 of the Schedule annexed to this notification amounting in the aggregate to the sum of forty-three lakhs, ninety-seven thousand, one hundred and seventy-five rupees shall be deemed to have been duly authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1956, in excess of the amounts granted for those services and for that year; and

(b) that the sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of the State of Bhopal under this notification shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1956.

## THE SCHEDULE

Sl. No.	Service and purpose	Excess		
		Voted	Charged	Total
		Rs.	Rs.	Rs.
(1)	(2)	(3)		
1	1—Direct Demands on Revenue . . . . .	68,182	..	68,182
2	3—Civil Administration . . . . .	18,16,388	..	18,16,388
3	4—Civil Works . . . . .	25,12,605	..	25,12,605
TOTAL . . . . .		43,97,175	..	43,97,175

[No. F. 21 (13)-B/58.]

SHIV NAURH SINGH, Jt. Secy.



(Department of Economic Affairs)

New Delhi, the 26th October, 1961

S.O. 2575.—Statement of the Affairs of the Reserve Bank of India, as on the 20th October, 1961.

BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up . . . . .	5,00,00,000	Notes . . . . .	15,52,44,000
Reserve Fund . . . . .	80,00,00,000	Rupee Coin . . . . .	1,69,000
National Agricultural Credit (Long-term Operations) Fund . . . . .	50,00,00,000	Subsidiary Coin . . . . .	3,11,000
National Agricultural Credit (Stabilisation) Fund . . . . .	6,00,00,000	Bills Purchased and Discounted :—	
		(a) Internal . . . . .	..
		(b) External . . . . .	..
		(c) Government Treasury Bills . . . . .	32,44,73,000
Deposits :—			
(a) Government			
(1) Central Government . . . . .	49,92,07,000	Balances held abroad* . . . . .	28,27,20,000
(2) Other Governments . . . . .	28,60,29,000	**Loans and Advances to Governments . . . . .	59,45,11,000
(b) Banks . . . . .	84,49,13,000	Other Loans and Advances† . . . . .	135,92,56,000
(c) Others . . . . .	146,78,50,000	Investments . . . . .	201,07,79,000
Bills Payable . . . . .	19,89,34,000	Other Assets . . . . .	17,93,27,000
Other Liabilities . . . . .	19,98,57,000		
RUPEES . . . . .	490,67,90,000	RUPEES . . . . .	490,67,90,000

\*Includes Cash & Short-term Securities.

\*\*Includes Temporary Overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs. 7,19,50,000/- advanced to scheduled banks against usance bills under Section 17 (4) (c) of the Reserve Bank of India Act.

Dated the 25th day of October, 1961.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 20th day of October, 1961.

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department . . .	15,52,44,000		A. Gold Coin and Bullion :—		
Notes in circulation . . .	1903,89,83,000		(a) Held in India . . .	117,76,03,000	
Total Notes Issued . . .		1919,42,27,000	(b) Held outside India . . .	..	
			Foreign Securities . . .	116,86,07,000	
			TOTAL OF A . . .		234,62,10,000
			B. Rupee Coin . . .		125,94,00,000
			Government of India Rupee Securities . . .		1558,86,17,000
			Internal Bills of Exchange and other commercial paper . . .		..
TOTAL LIABILITIES . . .		1919,42,27,000	TOTAL ASSETS . . .		1919,42,27,000

Dated the 25th day of October, 1961.

H. V. R. IENGAR,  
Governor.

[No. F. 3(2)-BC/61.]

A. BAKSI, Jt. Secy.

## CENTRAL BOARD OF REVENUE

### ESTATE DUTY

*New Delhi, the 28th October 1961*

**S.O. 2576.**—In exercise of the powers conferred by the second proviso to sub-section (2) of Section 4 of the Estate Duty Act, 1953 (34 of 1953) and in supersession of its Notifications No. 24/F. No. 34/3/57-ED dated the 25th January, 1958, published as S.R.O. No. 376 in Part II, Section 3 of the Gazette of India dated the 1st February, 1958, and No. 11/F. No. 4/48/58-ED dated the 4th May, 1959, published as S.O. 1024 in Part II, Section 3 of the Gazette of India dated the 9th May, 1959, the Central Board of Revenue hereby directs that every Inspecting Assistant Commissioner of Income-tax, Estate Duty Range, Bangalore, appointed to be a Deputy Controller and exercising jurisdiction over the Estate Duty *cum* Income-tax Circles, Bangalore, Dharwar and Mangalore, shall perform his functions as Deputy Controller in the said circles to the exclusion of all other Deputy Controllers in respect of the estates of all deceased persons who immediately before their death were being or would have been assessed to Income-tax, had they derived any taxable income in any Income-tax Circle within the jurisdiction of the Commissioner of Income-tax, Mysore, Bangalore.

2. This notification shall come into force with effect from the 1st November, 1961.

#### *Explanatory Note*

(This note is not part of the notification but is intended to be merely clarificatory).

This notification has become necessary due to the creation of a new additional Estate Duty *cum* Income-tax Circle at Mangalore. The purpose of the Notification is to clarify that the Inspecting Assistant Commissioner of Income-tax, Estate Duty Range, is to perform the functions of a Deputy Controller of Estate Duty in relation to all three Estate Duty *cum* Income-tax Circles located in the jurisdiction of the Commissioner of Income-tax, Mysore, to the exclusion of all other Inspecting Assistant Commissioners.

[No. 65/F. No. 21/47/61-ED.]

**S.O. 2577.**—In exercise of the powers conferred by the second proviso to sub-section (2) of section 4 of the Estate Duty Act, 1953 (34 of 1953), and in supersession of its notification No. 27/F. No. 21/92/60-ED dated the 20th September, 1961, published as S.O. No. 2299 in Part II, Section 3 of the Gazette of India dated the 24th September, 1961, the Central Board of Revenue hereby directs that, subject to the pecuniary limits specified in the notification of the Central Board of Revenue No. 11-ED/F. No. 21/52/57-ED dated the 5th September, 1957, as amended by its notification No. 8/F. No. 12/1/59-ED, dated the 1st April, 1959, every Income-tax Officer appointed to be an Assistant Controller and posted to the Estate Duty *cum* Income-tax Circle, Mangalore, and every Inspecting Assistant Commissioner of Income-tax appointed to be a Deputy Controller and exercising jurisdiction over the said circle shall perform his functions as Assistant Controller and Deputy Controller respectively in the said circle to the exclusion of all other Assistant Controllers or Deputy Controllers in respect of the estates of all deceased persons who immediately before their death were being, or would have been, assessed to income-tax, had they derived any taxable income in any Income-tax Circle, the headquarters of which lies within the revenue districts of South Kanara, Hassan, Coorg, Chikmagalur and Shimoga.

2. This notification shall come into force with effect from the 1st November, 1961.

#### *Explanatory Note*

(This note is not part of the notification but is intended to be merely clarificatory).

This notification has become necessary due to the creation of a new Estate Duty *cum* Income-tax Circle at Mangalore within the jurisdiction of the Commissioner of Income-tax, Mysore.

[No. 66/F. No. 21/47/61-ED.]

**S.O. 2578.**—In exercise of the powers conferred by the second proviso to sub-section (2) of section 4 of the Estate Duty Act, 1953 (34 of 1953) and in supersession of its notification No. 27/F. No. 21/92/60-ED, dated the 20th September, 1961, published as S.O. No. 2299 in Part II, Section 3 of the Gazette of India,

dated the 24th September, 1961, the Central Board of Revenue hereby directs that, subject to the pecuniary limits specified in the notification of the Central Board of Revenue No. 11-ED/21/52/57-ED, dated the 5th September, 1957 as amended by its notification No. 8/F. No. 12/1/59-ED, dated the 1st April, 1959, every Income-tax Officer appointed to be an Assistant Controller and posted to the Estate Duty *cum* Income-tax Circle, Bangalore, and every Inspecting Assistant Commissioner of Income-tax appointed to be a Deputy Controller and exercising jurisdiction over the said Circle shall perform his functions as Assistant Controller and Deputy Controller respectively in the said circle to the exclusion of all other Assistant Controllers or Deputy Controllers in respect of the estates of all deceased persons who immediately before their death were being, or would have been, assessed to income-tax, had they derived any taxable income in any Income-tax Circle, the headquarters of which lies within the revenue districts of Bangalore, Mandya, Mysore, Tumkur and Kolar.

2. This notification shall come into force with effect from the 1st November, 1961.

#### Explanatory Note

(This note is not part of the notification but is intended to be merely clarificatory.)

This notification has become necessary due to the transfer of South Kanara, Hassan, Coorg, Chikmagalur and Shimoga districts from the jurisdiction of the Estate Duty *cum* Income-tax Circle, Bangalore to the Estate Duty *cum* Income-tax Circle, Mangalore, which has been newly created.

[No. 67/F. No. 21/47/61-ED.]

**S.O. 2579.**—In exercise of the powers conferred by section 4 of the Estate Duty Act, 1953 (34 of 1953), read with rule 6 of the Estate Duty Rules, 1953, the Central Board of Revenue hereby transfers, with effect from the 1st November, 1961, the cases relating to the estates of the deceased persons who immediately before their death were being, or would have been, assessed to income-tax had they derived any taxable income in any Income-tax Circle the headquarters of which lies within the revenue districts of South Kanara, Hassan, Coorg, Chikmagalur and Shimoga, from the Assistant Controller, Estate Duty *cum* Income-tax Circle, Bangalore to the Assistant Controller, Estate Duty *cum* Income-tax Circle, Mangalore.

#### Explanatory Note

(This note is not a part of the notification but is intended to be merely clarificatory.)

This notification has become necessary due to the creation of a new Estate Duty *cum* Income-tax Circle at Mangalore, and the transfer to that Circle the districts of South Kanara, Hassan, Coorg, Chikmagalur and Shimoga, from the jurisdiction of the Estate Duty *cum* Income-tax Circle, Bangalore.

[No. 68/F. No. 21/47/61-E.D.]

P. K. GHOSH, Under Secy.

### MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 26th October 1961

**S.O. 2580.**—In pursuance of bye-law 26(a) of the Registered Bye-laws of the Womens' Industrial Cooperative Society Ltd. (Registered) (Duravaninagar), Bangalore, the Government of India hereby appoints for a period of one year with effect from 29th January, 1961, the Managing Committee of the said Society and directs that it shall consist of the following members:—

1. Smt. Sudha V. Reddy, Chairman, State Social Welfare Advisory Board, 'Geetha' Shanker Mutt Road, Bangalore-4.
2. Smt. Indira V. Sherol, Vice-Chairman, State Social Welfare Advisory Board, 'Geetha' Shanker Mutt Road, Bangalore-4.
3. Smt. Bharathi Bai, Member, State Social Welfare Advisory Board, Bangalore c/o Shri K. V. Rao, Executive Engineer, 3rd Block, Jayanagar, "Sri Krishna", Bangalore-11.

- 4 Smt M R Lakshamna, Member, State Social Welfare Advisory Board, MLC No 7 N R Colony, Basavangudi, Bangalore-4
- 5 Shri T K Chowdhory, C/O I T I Ltd, Durvaninagar, Bangalore South
- 6 Shri A Dutt, C/O I T I Ltd, Durvaninagar, Bangalore South
- 7 The Director, Small Industries Service Institute, Mysore, Bangalore
- 8 The Director of Industries, Mysore State, Bangalore (or his representative)
- 9 The Registrar of Coop Societies Bangalore or his representative

[No 44-SSI(B) (3)/59]

P S V RAGHAVAN, Under Secy

*New Delhi, the 27th October 1961*

**S.O. 2581.**—In exercise of the powers conferred under section 28 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), the Central Government hereby makes the following rules further to amend the Forward Contracts (Regulation) Rules, 1954, namely —

[Forward Contracts (Regulation) (Second Amendment) Rules, 1961]

1 These Rules may be called the Forward Contracts (Regulation) (Second Amendment) Rules, 1961

2 For Rule 7A of the Forward Contracts (Regulation) Rules, 1954, the following rule shall be substituted, namely —

“7A Certificate of registration—The certificate of registration granted to an association under sub-clause (b) of clause (3) of section 14A of the Act shall be in Form E and the certificate of registration granted to an association under section 14B of the Act shall be in Form F, and in each case, the certificate shall incorporate the conditions, if any, subject to which it is granted”

[No 35(1)-TMP/FMC/61]

T. S KUNCHITHAPATHAM, Under Secy.

### ORDER

*New Delhi the 26th October 1961*

**S.O. 2582 IDRA/6/20.**—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby establishes for the scheduled industries engaged in the manufacture or production of Glass and Ceramics, a Development Council which shall consist of the following members, namely:—

#### ‘DEVELOPMENT COUNCIL FOR GLASS AND CERAMICS’

Sl No	Name and address of the Member	Interest represented
1	Dr S R Lele, Managing Director, M/s Industrial & Engineering Apparatus Co Ltd, Chotani Estate, Proctor Road, Bombay (Chairman)	Owners
2	Shri H C Varshnai, M/s Scrakella Glass Works, Kandra (Bihar)	Do
3	Shri B B Sarkar, Managing Director, M/s Krishna Glass and Silicate Works Ltd, 17, Radha Bazar Street, Calcutta	Do
4	Shri V. R. Bhude, M/s Kangan Private Ltd., 208, Lady Jamshedji Road, Bombay	Do
5	Shri Satyanarain, Managing Director, M/s. South India Glass & Enamel Works, Salem (Madras State)	Do

Sl. No.	Name and address of the Member	Interest represented
6	Shri H. L. Somani, M/s. Hindustan Twyfford Mfg. Co. Ltd., Bahadurgarh (Punjab)	Owners.
7	Shri Gopal Bhagat, M/s. Bengal Potteries Ltd., 45, Tangra Road, Calcutta-15	Do.
8	Shri A. K. Ganpule, M/s. Parsuram Potteries Ltd., Morvi (Gujrat State)	Do.
9	Shri B. N. Bhaskar, M/s. Ishwar Industries, Katni (Madhya Pradesh)	Do.
10	Shri G. T. Kamdar, M/s. Digvijay Tiles & Potteries Ltd., Jamnagar	Do.
11	Shri V. N. Sundaram, M/s. Standard Potteries Ltd., Alwaye (Kerala State)	Do.
12	Shri D. N. Krishnamurthi, Resident Director, M/s. Party & Co., Bombay Mutual Building, Parliament Street, New Delhi-1	Do.
13	Shri N.C. Roy, Director, M/s. Orissa Cement Ltd., Rajganpur (Orissa)	Do.
14	Shri A. Banerjee, M/s. Bihar Fine Bricks, 26, Straw Road, Calcutta	Do.
15	Shri S. B. Agarwal, M/s. Dholpore Glass Works, Dholpore	Do.
16	Dr. Atma Ram, Director, Central Glass and Ceramics Research Institute, Calcutta	Technical knowledge.
17	Dr. Sadgopal, Deputy Director, Indian Standards Institution, Manak Bhavan, 9, Mathura Road, New Delhi	Do.
18	Dr. U. P. Ganguli, M/s. Bengal Enamel Works, Palta, Calcutta	Do.
19	Dr. B. C. Roy, Director, Geological Survey of India, Calcutta	Do.
20	Shri K. Vvasulu, Chief (Industry), Planning Commission, New Delhi	Do.
21	Shri P. R. Chaki, M/s. Belpahar Refractories, Belpahar (Orissa)	Technical knowledge
22	Dr. S. P. Varma, Development Officer, Development Wing, New Delhi	Do.
23	Shri Sham P. Ogale, M/s. Ogale Glass Works, Ogalevadi	Do.
24	Shri P. D. Nargulwala, M/s. Tata Chemicals, Mithapur (Gujrat State)	Consumers
25	Shri M.S. Oberoi, Managing Director, Oberoi Hotels, Maidens Hotel, Civil Lines, Delhi-6	Do.
26	Dr. S. Ghosh, Refractory Engineer, Bhilai Steel Project, Bhilai	Do.
27	Shri T. Gupta, M/s. Hind Lamps Ltd., Shikohabad (U.P.)	Do.

2. The Central Government hereby assigns all the functions enumerated in the Second Schedule to the Industries (Development and Regulation) Act, 1951, to the said Development Council.

[No. 4(32)IA/(IV)/61.]

D. HEJMADI, Dy. Secy.

(Department of Company Law Administration)

New Delhi, the 28th October 1961

**S.O. 2583.**—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 448 of the Companies Act, 1956 (I of 1956), the Central Government hereby appoints Shri K. Vaitheeswaran to be the Official Liquidator, High Court, Madras with effect from the afternoon of 14th October, 1961 until further orders vice Shri A. Arunachalam.

[No. PFG(122)-CLA/61.]

New Delhi, the 31st October 1961

**S.O. 2584.**—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 448 of the Companies Act, 1956 (I of 1956), the Central Government hereby appoints Shri D. G. Desai, Deputy Registrar of the Gujarat High Court, Ahmedabad to be ex-officio official Liquidator attached to the said High Court with effect from 19th October, 1961 vice Shri V. J. Merchant resigned.

[No. 8(28)-Admn.II/61.]

P. B. SAHARYA, Under Secy.



(Indian Standards Institution)

New Delhi, the 25th October 1961

**S.O. 2585.**—In pursuance of sub-rule (1) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955, the Indian Standards Institution hereby notifies that the Standard Mark, design of which together with the verbal description of the design and the title of the relevant Indian Standard is given in the Schedule hereto annexed, has been specified.

This Standard Mark, for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the rules and regulations framed thereunder shall come into force with effect from 1st November 1961.

THE SCHEDULE

No.	Design of the Standard Mark	Product/Class of Product which applicable	No. & Title of Relevant Indian Standard	Verbal description of the design of the Standard Mark
(1)	(2)	(3)	(4)	(5)
I.		Mutton Tallow	IS: 887-1960 Specification for Mutton Tallow.	The monogram of the Indian Standards Institution, consisting of letters ISI, drawn in the exact style and relative proportions as indicated in column (2), the number designation of the Indian Standard and the IS designation of the grade number being inscribed in the top and bottom side of the monogram as indicated in the design.
				

**S. O. 2586.**—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955 the Indian Standards Institution hereby notifies that the marking fee per unit for Mutton Tallow details of which are given in the Schedule hereto annexed, has been determined and the fee shall come into force with effect from 1st November 1961.

#### THE SCHEDULE

Serial No.	Product/Class of Products	No. and title of relevant Indian Standard	Unit	Marking Fee per Unit
I.	Mutton Tallow	IS :887-1960 Specification for Mutton Tallow.	One kilogram	1 nP. per unit with a minimum of Rs. 1,000.00 for production during a calendar year.

[No. MD/18:2]

C. N. MODAWAL,  
Deputy Director (Marks).

### MINISTRY OF STEEL, MINES & FUEL

#### (Department of Mines and Fuel)

New Delhi, the 26th October 1961

**S.O. 2587.**—In exercise of the powers conferred by clause (i) of article 299 of the Constitution, the President hereby directs that the following instrument may be executed on his behalf by the Coal Controller, Ministry of Steel, Mines and Fuel, namely:—

“Bonds to be executed by the collieries availing of the proceeds of the Loan Agreement number 292 IN between the Government of India and the International Bank for Reconstruction and Development for the import of coal mining machinery so as to ensure that the collieries submit requisite documents enabling the Government to claim reimbursement of foreign exchange under the Loan Agreement and to fulfil the requirements of the Agreement.”

[No. C4. 12(15)/61.]

S. P. GUGNANI, Dy. Secy.

#### (Department of Iron & Steel)

New Delhi, the 30th October 1961

**S.O. 2588/ESS. COMM/Iron & Steel-15(1)/AM(54).**—The following Notification issued by the Iron and Steel Controller under Sub-clause 1 of Clause 15 of the Iron and Steel (Control) Order, 1956 is published for general information.

#### “NOTIFICATION

In exercise of the powers conferred by Sub-clause (1) of Clause 15 of the Iron and Steel (Control) Order, 1956 and with the approval of the Central Government, the Iron and Steel Controller hereby notifies the following Addendum to Schedule—IV Prime quality Steel and Semis of the Ministry of Steel, Mines and Fuel, Iron and Steel Control, Calcutta's Notification No. ISC/AP/62/60 published in Part III Section I of the Gazette of India dated 24th December, 1960:—

#### ADDENDUM

Base price item No. 9B-Cold Rolled Sheets—thickness 3.15 mm to 2.0 mm.

Price in Rupees per M/Ton.

Col. I		Col. II		Col. III	
Untested	Tested	Untested	Tested	Untested	Tested
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
820	864	855	899	870	914



Base price item No. 9C-Cold Rolled Strips in Coils—thickness 3.15 mm to 2.0 mm.

*Price in Rupees per M/Ton.*

Col. I		Col. II		Col. III	
Untested	Tested	Untested	Tested	Untested	Tested
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
780	824	815	859	830	874

C. V. RAMACHANDRAN,  
Price and Accounts Officer  
for Iron & Steel Controller."

[No. SC(C)-2(29)/61.]

J. S. BAIJAL, Under Secy.

## MINISTRY OF FOOD AND AGRICULTURE

(Department of Agriculture)

(Indian Council of Agricultural Research)

*New Delhi, the 25th October 1961*

**S.O. 2589.**—In exercise of the powers conferred by sub-section 4 (vii) of section 4 of the Indian Lac Cess Act, 1930 (24 of 1930), as amended from time to time, the Central Government is pleased to nominate Shri Sukra Bhagat Uraon, M.L.A., Village Patti, P.O. Toto, District Ranchi on the Governing Body of the Indian Lac Cess Committee to represent the Cultivators of Lac in Bihar *vice* Pt. Binodanand Jha resigned.

[No. 3-75/60-Com. III.]

*New Delhi, the 28th October 1961*

**S.O. 2590.**—In pursuance of Sub-section (f) of Section 4 of the Indian Oilseeds Committee Act, 1946 (9 of 1946), the Central Government hereby appoint Shri R. S. Chowhan, B.Sc., (Agri.), Village Kharwa, Tehsil Khandwa; Distt. Khandwa (East Nimar) as a member of the Indian Central Oilseeds Committee to represent oilseeds growers of the Madhya Pradesh for the period ending the 31st March, 1964.

[No. F.8-35/61-Com.II.]

**S.O. 2591.**—In pursuance of the provisions of clause (d) of section 4 of the Indian Coconut Committee Act, 1944 (10 of 1944), the Government of Kerala have nominated the Director of Agriculture, Kerala State, as a member of the Indian Central Coconut Committee for the period ending 31st March, 1964 *vice* Shri P. D. Nair.

[No. 8-2/61-Com.I.]

SANTOKH SINGH, Under Secy.

## MINISTRY OF HEALTH

*New Delhi, the 25th October 1961*

**S.O. 2592.**—In pursuance of sub-rule (2) of rule 11 and clause (b) of sub-rule (2) of rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following amendment in the Schedule to the notification of the Government of India in the Ministry of Health No. S.R.O. 619 dated the 28th February, 1957, namely:—

In Part I of the said Schedule, under the heading "Lady Reading Health School, Delhi", for the entry "Assistant Director General of Health Services (Institutes)"

in columns 2 and 3, the entry "Nursing Adviser to the Government of India" shall be substituted.

[No. F.6-4/60-AV.]

B. S. SRIKANTIAH, Dy. Secy.

### ORDER

*New Delhi, the 27th October 1961*

**S.O. 2593.**—With reference to the notification of the Government of India, Ministry of Health No. F. 17-43/59-MI, dated the 9th January, 1961, according recognition to the Medical qualification M.D. (University of Illinois, U.S.A.) for the purposes of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the said Act directs that the medical practice by Dr. Arthur David Thiessen, possessing the said qualification, shall be limited to the institution of 'Bethesda Leprosy Hospital' Champa, Madhya Pradesh, for a period of two years with effect from the date of this order or so long as Dr. Arthur David Thiessen continues to work in the said institution for purposes of teaching, research or charitable work, whichever is shorter.

[No. F. 16-31/61-MI.]

A. C. RAY, Under Secy.

## MINISTRY OF TRANSPORT AND COMMUNICATIONS

(Department of Transport)

(Transport Wing)

MERCHANT SHIPPING

*New Delhi, the 27th October 1961*

**S.O. 2594.**—In exercise of the powers conferred by rule 5 of the Indian Merchant Shipping (Seamen's Employment Office Calcutta) Rules, 1954 the Central Government hereby appoints Shri J. M. Gibson as a member representative of the shipowners on the Seamen's Employment Board (Foreign going) at the port of Calcutta in place of Shri C. N. Rodewald who has since resigned, and makes the following amendment in the notification of the Government of India in the Ministry of Transport and Communications (Department of Transport) No. 15-MT(2)/60, dated the 9th November, 1960, as amended vide their notification No. 15-MT(9)/60, dated the 23rd November, 1960, namely:—

In the said notification for entry No. 7 under I., the following entry shall be substituted:—

"7. Shri J. M. Gibson".

[No. 15-MT(9)/60.]

M. L. GAIND, Dy. Secy.

## (Departments of Communications & Civil Aviation)

*New Delhi, the 20th October 1961*

**S.O. 2595.**—In modification of Notification No. 20-CA(1)/60, dated the 23rd June, 1960, the Central Government, in consultation with the Indian Airlines Corporation, has appointed Mrs. Yaseen Noorie as a member of the Advisory Committee of that Corporation *vice* the late Mrs. B.H. Zaidi.

[No. 20-CA(1)/60.]

*New Delhi, the 25th October 1961*

**S.O. 2596.**—In exercise of the powers conferred by Sub-Section (1) of Section 41 of the Air Corporations Act, 1953, the Central Government has, in consultation with the Corporations concerned, appointed Shri S. K. Kooka, Commercial Director, Air-India International Corporation as a member of the Advisory Committee of

the Indian Airlines Corporation, and Shri Biren Mukerji, Chief Traffic Manager, Indian Airlines Corporation, as a member of the Advisory Committee of the Air-India International Corporation.

[No. 20-CA(1)/60.]

K. GOPALAKRISHNAN, Dy. Secy.

(P. & T. Board)

New Delhi, the 25th October 1961

**S.O. 2597.**—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951 as introduced by S.O. No. 627 dated 8th March 1960 the Director General, Posts and Telegraphs, hereby specifies the 1st day of November, 1961 as the date on which the measured rate system will be introduced in Wellington Island Telephone Exchange.

[No. 11-22/1961-PHA.]

RAMA KANT, Director of Telephones (E).

## MINISTRY OF SCIENTIFIC RESEARCH AND CULTURAL AFFAIRS

New Delhi, the 13th October 1961

**S.O. 2598.**—In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby adds the name of the 'Indian Institute of Technology, Madras' in the Schedule to the said Act.

[No. F.7-37/59-T.6.]

**S.O. 2599.**—In exercise of the powers conferred by sub-section (2) of Section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act shall apply to the Provident Fund established for the benefit of the employees of the Indian Institute of Technology, Madras.

[No. F.7-37/59-T.6.]

A. B. CHANDIRAMANI,  
Deputy Educational Adviser (Technical).

## MINISTRY OF WORKS, HOUSING & SUPPLY

New Delhi, the 25th October 1961

**S.O. 2600.**—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), the Central Government hereby appoints the officers mentioned in column 1 of the table below, being gazetted officers of Government, to be estate officers for the purposes of the said Act who shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under the said Act within the local limits of their respective jurisdiction in respect of the public premises specified in the corresponding entries in column 2 of the said table.

THE TABLE

Designation of Officers (1)	Categories of public premises and local limits of jurisdiction (2)
1. Shri Thakar Dass, P.C.S., Assistant Commissioner, Municipal Corporation of Delhi.	Premises belonging to or under the control of the Delhi Administration and New Delhi Municipal Committee.
2. Shri H. D. Sharma, P.C.S., Assistant Commissioner, Municipal Corporation of Delhi.	
3. The Chief Administrative Officer, Delhi Milk Scheme.	Premises under the administrative control of the Delhi Milk Scheme.

[No. 14/3/60-Acc.]

P. RAJARATNAM, Under Secy.

*New Delhi, the 28th October 1961*

**S.O. 2601.**—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), the Central Government hereby appoints the officers mentioned in Column 1 of the table below, being gazetted officers of Government, to be estate officers for the purposes of the said Act who shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under the said Act within the local limits of their respective jurisdiction in respect of the public premises specified in the corresponding entries in column 2 of the said table.

**THE TABLE**

Designation of Officers. (1)	Categories of Public premises and local limits of jurisdiction. (2)
1. Divisional Superintendents, Central Railway, Bhusaval, Bombay, Jhansi, Jabulpore, Nagpur, Secunderabad and Sholapur.	Premises under the administrative control of the Central Railway situated within the local limits of their respective jurisdiction.
2. Divisional Superintendents, Eastern Railway Asansol, Dinapur, Howrah, Sealdah and Dhanbad.	Premises under the administrative control of the Eastern Railway situated within the local limits of their respective jurisdiction.
3. Divisional Superintendents, Northern Railway, Allahabad, Bikaner, Ferozepore, Jodhpur, Lucknow, Moradabad and New Delhi.	Premises under the administrative control of the Northern Railway situated within the local limits of their respective jurisdiction.
4. Deputy Chief Engineers, North Eastern Railway, East, West and Construction.	Premises under the administrative control of the North Eastern Railway situated within the local limits of their respective jurisdiction.
5. Deputy Chief Engineers, Northeast Frontier Railway-South, North, Survey and Construction and Brahmaputra Bridge Project.	Premises under the administrative control of the Northeast Frontier Railway situated within the local limits of their respective jurisdiction.
6. Divisional Superintendents, Southern Railway-Vijayawada, Guntakal, Madras, Mysore, Olavakot, Hubli, Tiruchchirappalli and Madurai.	Premises under the administrative control of the Southern Railway situated within the local limits of their respective jurisdiction.
7. (i) Regional Superintendents, South Eastern Railway, Bilaspur, Chakradarpur, Adra, (ii) Dy Chief Engineers-West, <b>General</b> , East and Construction.	Premises under the administrative control of the South Eastern Railway, situated within the local limits of their respective jurisdiction.
8. Divisional Superintendents, Western Railway, Bombay, Baroda, Ratlam, Kota, Ajmer Jaipur, Rajkot and Bhavnagar.	Premises under the administrative control of the Western Railway situated within the local limits of their respective jurisdiction.

[No. 14/3/60/-ACC.]

R. C. MEHRA, Under Secy.

**MINISTRY OF RAILWAYS**

**(Railway Board)**

*New Delhi, the 30th October 1961*

**S.O. 2602.**—In exercise of the powers conferred by sub-section (1) of Section 4 of the Indian Railways Act, 1890 (Act IX of 1890), the Central Government hereby

appoints the Commissioner of Railway Safety and the Additional Commissioners of Railway Safety by virtue of their office, as Inspectors of Railways for the purposes of the said Act, with effect from 1st November, 1961.

[No. 61/WI/INR/1.]

D. V. REDDY, Secy.

## MINISTRY OF REHABILITATION

New Delhi, the 11th October 1961

**S.O. 2603.**—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of Maharashtra for a public purpose connected with the relief and rehabilitation of displaced persons including payment of Compensation to such persons.

Now, therefore in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act 1954. (44 of 1954), it is notified that Central Government has decided to acquire and hereby acquires, the evacuee properties specified in the Schedule hereto annexed.

### SCHEDULE

S.No.	Particulars of Evacuee Property	Name of the town and locality in which property is situated	Name of evacuee
70	Govtham Dahisar	R. Ward No. 7732(1) 70 Govtham Dahisar.	Shri Vali Mohmed Sheikh Ismail.

[No. F. 13(6)Comp.&Prop./61.]

**S.O. 2604.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee property in the State of Mysore for a Public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of Compensation to such persons ;

Now therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act 1954 (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the Schedule.

### SCHEDULE

Serial No.	Particulars of the property	Name of the Village/ Locality where the property is situated	Name of the Evacuee
1	2	3	4

#### District Karwar (Mysore State)

##### A. G.

1.	Mulki rights in Agri. land	S.No.1154/2 area 1-17-0	Village Chitakula, Taluk Karwar.	1. Abdul Khadir 2. Anwar Khan s./o Ahmed Khan
2.	Do.	19/2 { " 0 19 0	Village Karwa, Taluk Honavar	Shri Mahammed Mansur Bin Maidin Sukri.
3.	Do.	19/2 { area 0 19 0	Do.	Do.
4.	Do.	.. area 0 36 0	Village Mavin Kurve, Taluka Honavar.	Do.
5.	Do.	67/1A " 0 32 0	Do.	Do.
6.	Do.	67/1B " 0 4 0	Do.	Do.

1	2	3	4
	S. No.	A. G.	
	area		
7. Malki rights in Agr. land	275/1	0 9 8	Village Hadinbal, Taluk Honavar.
Sh. Mansur Sukri. Mahammed Bin Maidin			
8. Do.	275/2	0 9 8	Do.
Do.			
9. Do.	275/3	0 19 0	Do.
Do.			
10. Do.	294/6	0 13 0	Do.
Do.			
11. Do.	21	2 13 0	Village Jalwal Karka, Taluk Honavar
Do.			
12. Do.	30/3	0 39 0	Do.
Do.			
13. Do.	16/1	0 2 12	Village Mutta, Taluk Honavar.
Saifuddin Bin Mahammed Sab Hagalwadi.			
14. Do.	47	1 4 0	Do.
Do.			
15. Do.	58/4	0 4 14	Do.
Do.			
16. Do.	666/1	0 12 0	Village Mavin Kurve, Taluk-Honavar.
Do.			
17. Do.	160/1	0 16 0	Do.
Do.			
18. Do.	381/2	0 9 8	Do.
Do.			
19. Do.	672	1 1 0	Do.
Do.			
20. Do.	352/1	0 13 0	Do.
Do.			
21. Do.	352/2	0 13 0	Do.
Do.			
22. Do.	352/3	0 25 0	Do.
Do.			
23. Do.	352/4	0 15 0	Do.
Do.			
24. Do.	352/5	0 13 0	Do.
Do.			
25. Do.	352/6	0 15 0	Do.
Do.			
26. Do.	531/11	0 13 0	Village Honavar, Taluk "
Mahammed Bin Madin Sukri.			
27. Do.	20	1 14 0	Village Karva, Taluk Honavar.
Saifuddin Bin Mahammed Hagalwadi.			
28. 1/2 Malki rights in Agr. land.	649	1 36 0	Village Mavalli, Taluk-Bhatkal Petha.
Shahul Hamid.			
29. Malki rights in Agr. land	634/2B	0 15 0	Do.
Siddi Mahammed Ismail Gaima.			
30. Do.	777/1	0 39 8	Do.
Hussein Bin Mohd. Mira Shariff.			
31. Mulgenl Rights in Agr. land	506/25	0 1 2	Do.
Mahmad Mira Bin Aboo.			
(with residential house standing therein.)			
32. Malki rights in Agr. land.	526 part	5 30 0	Village Bailur, Taluk-Bhat Kal
Hassan Bin Aboo Mahammed alias Bapusab Maddas.			
33. Do.	Serial No. 333/IB2	0 8 2	Do.
Aboo Mohammed Bin Mahammed Mira Maddas.			

1		2		3		4
		S. No.	A.G.			
34.	Malki rights in Agr. land	333/1B2	area	0 18 0	Village—Bailur, Taluk Bhat Kal Petha, Aboo Mohammed Bin Mohammed Mira Maddas.	
35.	Do.	362/10	"	0 14 0	Do.	Do.
36.	Do.	362/11	"	0 3 0	Do.	Do.
37.	Do.	446/1	"	0 18 0	Village—Susgadi Taluk Bhat Kal Petha, Sayed Mohiddin Bin Sayed.	
38.	Do.	446/2	"	0 24 0	Do.	Do.
39.	14/72 Share in Agr. land.	446/3	"	0 8 7	Do.	Do.
40.	Malki rights in Agr. land.	593	"	5 20 0	Do.	Do.
41.	Do.	873/4 Part „	"	0 4 8	Village Bangre, Taluk Bhat Kal Petha, Aboo Mohd. alias Mohd. Mira Bin Siddi Mohd. Sannabba.	
42.	Do.	882	"	0 16 5	Do.	Do.
43.	Mulgeni rights in Agr. land	1075/2	"	0 15 0	Do.	Do.
44.	Do.	67	"	0 24 0	Village Shirali Taluk Bhat Kal Petha	1. Ahmd. alias Mhd. Aammad Alamgir. 2. Hassan s/o Mohd Ikeri. 3. Hissamuddin s/o Do.
45.	Do.	68	"	0 37 0	Do.	
46.	Do.	69	"	0 36 0	Do.	
47.	Do.	70/1	"	0 7 8	Do.	
48.	Malki rights in Agr. land.	27/1	"	0 22 0	Village Kaikini, Taluk Bhat Kal-Petha, Maidin Abboo Mahd. Bin Abdul Khadir Sab Haji.	
49.	Do.	86/4	"	0 13 0	Do.	Do.
50.	Do.	168	PK	0 0 8		
51.	Do.	627/1	area	0 10 0	Do.	Do.
52.	Do.	917/1	"	0 1 8	Do.	Do.
53.	Do.	751	"	0 3 8	Village—Bengre, Taluk-Bhat Kal Petha, Khadir Mira Bin Hassan alias Wallappa Motisham.	
54.	Do.	751	PK	7 33 0	Village Kaikini, Taluk-Bhat Kal Petha, Hassan Bin Mahd. Badsha Siddiq.	
55.	Do.	753	area	0 2 0	Do.	Do.
56.	Do.	74/1	PK	10 38 0	Do.	Do.
57.	Do.	72/2	area	0 5 0	Village Belke Taluk Bhatkal Petha, Aboo Mahd. alias Mahd. Moulse Bin Siddi Mahd. Sannabba.	
58.	Do.	72/2	"	0 35 0	Do.	Abbo Mahd. alias Mahammad Moulse Bin Siddi Mahd. Sannabba.
59.	Do.	97/9A	"	0 17 8	Do.	Do.
A						
58.	Malki & Mulgeni rights in Agr. land	97A/9D	"	0 4 8	Do.	Do.
59.	Malik rights in Agr. land.	313/6	"	0 8 4	Do.	Do.
60.	Do.	330/1	"	0 5 0	Do.	Do.
			PK	0 4 0		

1	2	3	4
	S.No.	A. G.	
61.	Malki rights in Agr. Ind. 536/2A	area PK 0 0 16 14 8 } Village Mavalli, Taluk Bhat Kal Petha.	Hussein Bin Mahd. Mira Sherif.
62.	Do. 536/2B	area PK 0 0 16 14 8 }	Do. Do.
63.	Do. 539/2	area PK 0 0 7 0 1 0 }	Do. Do.
64.	Do. 562/3A	area 0 4 0	Do. Do.
65.	Do. 562/3B	" 0 10 0	Do. Do.
66.	Do. 595/3B	" 0 10 0	Do. Do.
67.	Do. 619/2	" 0 20 8	Do. Do.
68.	Mulgeni rights in Agr. land. 525/1A	" PK 0 0 7 2 8 }	Do. Do.
69.	Do. 525/1B	area PK 0 0 4 14 4 }	Do. Do.
70.	Do. 525/2A1	area 0 3 2	Do. Do.
71.	Do. 525/2A.2A	" 0 2 14	Do. Do.
72.	Do. 525/2B.2B	" 0 0 4	Do. Do.
73.	Pot Mulegini rights in Agr. land. 516/B2	PK 0 5 8	Do. Ahmad Bin Hassan Bilchod.
74.	Malki rights in Agr. land. 26/2	area PK 0 0 6 8 8 }	Village-Kaikini, Taluk Bhat Kal Petha. Hussein Bin Md. Mira Shaikh.
75.	Do. 107/1	area PK 0 0 6 1 0 }	Do. Do.
76.	Do. 384/3	area 0 19 0	Do. Do.
77.	Do. 397/3	" 0 13 0	Do. Do.
78.	Do. 389/3	" 0 6 0	Do. Do.
79.	Do. 413/1	" 0 14 0	Do. Do.
80.	Do. 413/2	area 0 5 0	Village-Kaikini, Taluk Bhat Kal Petha. Hussein Bin Md. Mira Shaikh.
81.	Do. 413/3	" 0 20 0	Do. Do.
82.	Do. 413/4	" 0 10 0	Do. Do.
83.	Do. 417/1	" 0 8 0	Do. Do.
84.	Do. 417/2	" 0 15 0	Do. Do.
85.	Do. 417/3	" 0 21 0	Do. Do.
86.	Do. 435/1	" 0 9 0	Do. Do.
87.	Do. 438/1	" 0 3 2	Do. Do.
88.	Do. 461/3	" 0 20 0	Do. Do.
89.	Do. 480/4A	" 0 27 8	Do. Do.
90.	Do. 480/4B	" 0 2 8	Do. Do.
91.	Do. 600/3	" PK 1 0 8 8 8 }	Do. Do.
92.	Do. 587/2A	area 0 2 0	Do. Do.
93.	Do. 410	" PK 2 0 34 3 0 }	Village Manki, Taluk Bhat Kal Petha. Do.
94.	Do. 428/1 to 7	area PK 2 0 20 1 0 }	Do. Do.
95.	Do. 421/A/6	area PK 0 0 0 14 14 }	Do. Do.

with residential house.



1	2	3	4
<i>District Raichur</i>			
96.	House No. 27 (rural)	Village Mudgal, Taluk-Lingsugur.	Mahaboob Baig.
97.	House No. 3/129 (urban).	Bairunc Qilla, Raichur Town	Smt. Sahara Begum.
98.	Plot No. 7/128 (rural)	Village Koppal, Dist. Raichur.	Syed Yakub Hus-
			sein.
99.	Plot No. 7/129 (rural)	Do.	Do.
<i>District Bidar</i>			
100.	House No. 6-2-37 (Urban) (old No. 242.)	Mohalla Maniyar Talim.	Abdul Wahid.
<i>District Bangalore</i>			
101.	House No. 6/2 (urban)	Kubersingh Lane, Lal Bag Fort Road, Doddamawalli Bangalore City.	A. S. Sheriff.
102.	House No. 1271 (rural)	Town Ramanagaram, Dist. Bangalore.	Shri Rahiman Khan.

[No. F. 13(6) Comp. & Prop./61.]

**S.O. 2605.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee property in the State of Kerala for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons;

Now therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires the evacuee properties specified in the Schedule below :—

#### SCHEDULE

S. No.	Particulars of the property.	Name of the town/locality in which evacuee property is situated.	Name of the evacuee.
1	2	3	4
<i>A. District Kozhikode (Kerala).</i>			
1.	Garden land measuring 2 Acres & 15 Cents in Survey No. 249/3.	Village Pallikkal Amsom, Marakkadavan Mohamed. Ernad Taluk, Dist. Kozhikode.	
2.	Jenmam rights over agr. land Survey No. 203/2 measuring 1 Acre and 53 Cents of occupied dry land.	Koduvayoor Amsom, Tirur Taluk, Malappuram Division (Kozhikode)	Janali P. Moiddeen Kutty.
<i>B. District Trichur</i>			
3.	91 1/2 Cents of agr. land bearing New Survey No. 225/4 covered by Patta No. 607.	Village Anjoor, Taluk Tallapilly.	Shri Mohamed alias Ammu

[No. F. 13(6) Comp. & Prop./61.]

**S. O. 2606.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee property in the State of Madras for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of Compensation to such persons ;

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the Schedule below.

## SCHEDULE

Serial No.	Particulars of the property Municipal No. etc.	Town/locality, village where the property is situated	Name of the Evacuee
1	2	3	4
	<i>District Salem (Madras State)</i>		
	<i>A. Cents.</i>		
1.	Nagarinilam Punjai 2·67	Village Purshotham Puram	Shri M.A. Wasiff
2.	Akinjimaram Punjai 10·27	Agraharam Group-1A,	s/o Naziruddin Saheb.
3.	Punjai Taram Nanjai 0·41	Krishnagiri Taluka, Dist.	
4.	Peemaram Nanjai 3·88	Salem	
5.	Kuttai Punjai 2·15		
6.	Pceraram Nanjai 7·35		
7.	Thotti Inam Nanjai 0·88		

[No. 13(6) Comp. & Prop./61.]

*New Delhi, the 25th October, 1961.*

**S.O. 2607.**—Whereas the Central Government is of the opinion that it is necessary to acquire certain evacuee properties in the State of Saurashtra for the public purpose referred in sub-section (1) of Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954,

Now, therefore, in exercise of the powers conferred under the said section, it is notified that, the Government has decided to acquire and hereby acquires, the evacuee properties specified in the schedule below.

## SCHEDULE

Sl. No.	E. P. No.	Description of Property	Locality and Place
1	E.P.No.C/1	Business premises	Baharpura, Kutiyana.
2	" K/20	Do.	Gandhi Road, Kutiyana.
3	" K/80	Residential Premises	Do.
4	" K/81	Business Premises	Do.
5	" K/82	Business-cum-Residential premises.	Do.
6	" K/85	Business premises	Do.
7	" A/5	Do.	Mainbazar Kutiyana.
8	" A/17	Do.	Do.
9	" A/18 & A/18A to E	Do.	Do.
10	" A/34	Do.	Do.
11	" A/35	Do.	Do.
12	" G/6	Residential premises	Charkra Road Kutiyana.
13	" G/287	Do.	Do.
	G/287A, B to C	Do.	Do.

[No. 38(1) Comp. & Prop./61.]

**(Office of the Chief Settlement Commissioner)**

*New Delhi, the 28th October 1961*

**S.O. 2608.**—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby rescinds the notifications specified below:—

1. No. 3(53)/Pol.II/60-1/Lands dated the 14th December, 1961.
2. No. 3(43)/Policy-II/59 dated the 12th January, 1960.

P

[No. 3(51)/L&R/61.]

**S.O. 2609.**—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby rescinds the notification specified below:—

1. No. 3(51)/Pol.II/60-Lands dated 8th December 1960.

[No. F.3(45)/L&R/61.]

**S.O. 2610.**—In exercise of the powers conferred by the sub-section (1) of Section 3 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri Balmukand, Land Claims Officer, Jullundur under the Punjab Government to be an Assistant Settlement Commissioner in the State of Punjab, for the purpose of performing, in addition to his own duties as Land Claims Officer, the functions assigned to an Assistant Settlement Commissioner by or under the said Act, in respect of agricultural lands and shops in any rural areas including houses, cattle sheds and vacant sites, if any, in any such area allotted along with any such lands and forming part of the Compensation Pool.

[No. 3(51)/L&R/61.]

M. J. SRIVASTAVA,  
Settlement Commissioner and  
*Ex-Officio* Under Secretary.

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**(Office of the Chief Settlement Commissioner)**

*New Delhi, the 28th October 1961*

**S.O. 2611.**—In exercise of the powers conferred by Sub-section (1) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints for the state of Uttar Pradesh, Shri H. R. Seth, Assistant Settlement Commissioner in the Office of the Regional Settlement Commissioner, Lucknow, as Deputy Custodian, for the purpose of duties imposed on Custodian by or under the said Act with effect from 24th October, 1961.

[No. 6/47/57/AR(Per.)/CSC/61.]

KANWAR BAHADUR,  
Settlement Commissioner and  
*Ex-Officio* Deputy Secretary.

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**(Office of the Chief Settlement Commissioner)**

*New Delhi, the 28th October 1961*

**S.O. 2612.**—In exercise of the Powers conferred by sub-section 2 of the Section 34 of the Displaced Persons (Compensation & Rehabilitation) Act 1954 (44 of 1954), I, S. W. Shiveshwarkar, Chief Settlement Commissioner, hereby rescind the notification specified below:—

1. 3(37)/Pol.-II/59 dated 30th March, 1961.

[No. F.3(45)/L&R/61.]

**S.O. 2613.**—In exercise of the powers conferred by sub-section (2) of Section 34 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954, I. S. W. Shiveshwarkar, Chief Settlement Commissioner hereby rescind the notification specified below:—

1. No. 3(51)/Pol.II/60 Lands dated the 8th December, 1960.

S. W. SHIVESHWARKAR,  
Chief Settlement Commissioner.

## MINISTRY OF INFORMATION & BROADCASTING

*New Delhi, the 26th October 1961*

**S.O. 2614.**—In exercise of the powers conferred by sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby appoints Shri N. Gopala Menon, after consultation with the Central Board of Film Censors, as a member of the Advisory Panel of the said Board at Madras with immediate effect.

[No. 11/5/61-FC.]

*New Delhi, the 27th October 1961*

**S.O. 2615.**—In exercise of the powers conferred by sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby appoints Shrimati Radharani Devi, after consultation with the Central Board of Film Censors, as a member of the Advisory Panel of the said Board at Calcutta with immediate effect.

[No. 11/3/59-FC.]

R. K. GOVIL Under Secy.

*New Delhi, the 27th October 1961*

**S.O. 2616.**—In exercise of the powers conferred by sub-rule (2) of rule 11, Clause (b) of sub-rule (2) of rule 14, and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following amendment in the Schedule to the Notification of the Government of India, in the Ministry of Information and Broadcasting No. S.R.O. 618 dated the 28th February, 1957, namely:—

In the said Schedule, in Part I, under the heading "Field Publicity Organisation" and sub-heading "Regional Offices and Field Publicity Units" for the figures "100" the figures "150" shall be substituted.

[No. 6(17)/59-PP.]

J. J. KARAM, Under Secy.

## MINISTRY OF LABOUR AND EMPLOYMENT

*New Delhi, the 24th October, 1961*

**S.O. 2617.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Bombay in the industrial dispute between the employers in relation to the Bombay Port Trust, Bombay and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY.

REFERENCE No. CGIT-24 of 1960.

Employers in relation to the Bombay Port Trust, Bombay.

AND

their workmen.

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

Bombay, 16th October, 1961.

APPEARANCES:—

*For the employers.*—Shri S. D. Nariman, Legal Adviser, Bombay Port Trust.

*For the workmen.*—Shri S. Maitra, General Secretary, Bombay Port Trust General Workers' Union.

Shri S. J. Deshmukh, Assistant Secretary, Bombay Port Trust Employees' Union.

STATE: Maharashtra.

INDUSTRY: Port and Docks.

AWARD

The Government of India, Ministry of Labour and Employment, by Order No. 28/42/60/LRIV/I, dated 26th June, 1960, was pleased in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), to refer to me for adjudication the industrial dispute between the parties abovenamed in respect of the 31 demands specified in the schedule of that Order.

2. By another Order No. 28/42/60/LRIV/II, of the same date the Central Government in exercise of the powers conferred by sub-section (3) of section 10 of the Act was pleased to prohibit the continuance of the strike which was then in existence in the Bombay Port in connection with the said dispute.

3. After the usual notices were issued, the Bombay Port Trust General Workers' Union, hereinafter referred to as the union, filed its statement of claim on 2nd September, 1960, to which the Bombay Port Trust, hereinafter referred to as the employers filed its written statement in reply on 15th October, 1960. After that, on the joint application of the parties and particularly of the Bombay Port Trust on the ground of the illness of its Legal Adviser the dispute was not fixed for hearing till 15th June, 1961. At the hearing on 15th June, 1961, Shri S. J. Deshmukh, Assistant Secretary of the Bombay Port Trust Employees' Union filed his appearance and requested that he may be allowed to file his statement of claim on certain demands in which the workmen whom his Union was representing were interested, which he did on 22nd June, 1961. The Bombay Stevedores and Dock Labourers' Union represented through its President, Shri H. N. Trivedi, also appeared at the hearing on 15th June, 1961, but subsequently by a letter dated 26th June, 1961, Shri Trivedi withdrew the appearance of his union in these proceedings.

4. Before dealing with the merits of the demands forming the subject matter of this Reference, I may state that at the request of the parties and accompanied by their representatives I visited the Bombay docks on three occasions to inspect certain vessels to better appreciate the contentions and submissions of the parties on the relevant demands.

5. At the hearing both parties led oral and documentary evidence and I have had the benefit of lengthy and detailed submissions on the several demands on which I am making my award from Shri S. D. Nariman, Legal Adviser to the

Bombay Port Trust, Shri S. Maitra, General Secretary, the Bombay Port Trust General Workers' Union and Shri S. J. Deshmukh, Assistant Secretary of the Bombay Port Trust Employees' Union.

6. Even after this reference was made by Government, negotiations for settlement were continued between the Administration of the Bombay Port Trust and Shri Maitra, representing the Bombay Port Trust General Workers' Union and I was told at the hearing that agreement had been reached partially on demands Nos. 2 and 12 and wholly on demands Nos. 6, 7, 9, 10, 11, 16, 17, 19, 23, 27, 28, and 29, and I am, therefore, making an award on those demands in terms of the settlement reached between the parties. In the result, out of the 31 demands under reference only demands Nos. 1, 3, 4, 5, 8, 14, 15, 18, 21, 22, 24, 25, 26, 30, and 31, and the non-settled parts of demands Nos. 2 and 12 survive to be adjudicated upon, and I now proceed to deal with these demands.

7. The history of this dispute is that on 23rd June, 1960, the General Secretary of the Bombay Port Trust General Workers' Union addressed a letter to the Deputy Secretary, Bombay Port Trust, stating that at a general body meeting of the union held on 20th June, 1960, presided over by the President of the Union Shri G. H. Kale, the 31 demands under reference had been formulated and passed unanimously.

8. A resolution passed at a general body meeting of the union held two days later i.e., on 22nd June, 1960, particularly referred to the suspension from service of one Rajamiya Kalamiya, Serang of Stokers by the Deputy Conservator (subject matter of demand No. 27), and it was decided that in order to lodge an effective protest, the workmen should resort to stoppage of work with immediate effect. The meeting further decided that if a general strike took place, work would be resumed only after a settlement of the demands Nos. 1 to 30. As a result, the flotilla crew launched a strike from 23rd June, 1960. The Deputy Chief Labour Commissioner (Central), New Delhi, came down to Bombay to bring about a settlement of the dispute and the withdrawal of the strike, but his efforts did not succeed for the reasons recorded by him in his report dated 25th June, 1960. Thereafter, this reference was made by the Government Order dated 26th June, 1960, and by another order of the same date the continuance of the strike was prohibited as stated earlier.

#### *Demand No. 1.*

"That promotions upto the post of Seacunny, Tindal of Lascars, Tindal of Stokers etc., were used to be strictly according to seniority of service without any reference to scale of pay, grade or any other consideration. The policy of considering 1st Class Stokers or 1st Class Lascars who were recruited directly to such posts as senior to 2nd Class Stokers or Lascars, have resulted in adversely affecting the service conditions of the 2nd Class Stokers or Lascars. It is therefore the demand that the old policy should be continued without any change and promotions to higher posts not requiring any certificate should be on the basis of length of service i.e., seniority of service".

The Bombay Port Trust in its written statement has urged a preliminary legal objection against the maintainability of this demand and the same was urged before me at the hearing by the learned Legal Adviser of the Port Trust Shri S. D. Nariman. The legal objection is that para 31 of the Das Gupta Award (Award, dated 23rd May, 1958 of the Central Government Industrial Tribunal, Calcutta) on demand No. (ii) in Reference No. 5 of 1957 covered the instant demand and was binding on the parties on the date the reference of this dispute was made by Government under section 10(1)(d) of the Industrial Disputes Act, on 26th June, 1960. In its written statement the Bombay Port Trust has stated that in para 31 of his Award Shri Das Gupta, laid down certain principles for regulating priority for the purposes of promotion. According to those principles, priority has to be based on seniority-cum-suitability and therefore the order of reference as far as it relates to this demand (demand No. 1) is void and inoperative in law in as much as the Award of Shri Das Gupta, which dealt entirely with the question of principles governing promotion for the Flotilla Crew of the Port and Engineering department of the Bombay Port Trust, was in force on the day when the reference was made. It is admitted that the union gave the statutory two months' notice of its intention to terminate the Das Gupta Award, only on 30th May, 1960 and that under that notice, the Award would have stood terminated only after 30th July, 1960. In other words, the Bombay Port Trust's contention is that on the

date this dispute was referred to adjudication on 26th June, 1960, the Union's notice terminating the Award had not become enforceable and therefore the provisions of the Das Gupta Award governing promotion were binding on the parties and no industrial dispute could be validly raised or referred to a Tribunal for adjudication on that issue, and therefore the reference of this demand to adjudication prior to the termination of that Award, is invalid and illegal and this Tribunal has no jurisdiction to entertain the same. Shri S. Maitra, the General Secretary of the B.P.T. General Workers' Union, has, on the other hand, argued that the Union gave the notice dated 30th May, 1960 for termination of the Das Gupta Award out of abundant caution, without admitting that the directions contained in paragraph 31 of the Das Gupta Award on demand No. (ii) in Reference No. 5 of 1957, applied in respect of the principles governing promotion to non-certificated posts and for that purpose, he has relied upon the terms of issue No. (ii) referred to the Das Gupta Tribunal. Shri Maitra's stand throughout, on this demand, has been that Para 31 of the Das Gupta Award, applied only to principles governing promotion to certificated posts and therefore did not apply to the 3 posts viz., Seacunnies, Tindal of Lascars and Tindal of Stockers covered by this reference. Without prejudice to this, the union has relied upon the result of the discussions for settlement which took place between the President and General Secretary of the Bombay Port Trust General Workers' Union and the Chairman of the Port Trust after this dispute was referred for adjudication, as recorded in the letter of the Deputy Secretary, Bombay Port Trust No. PU/GEE-G(U)/1409, dated 22nd July, 1960, addressed to the General Secretary of the Union, in which on demand No. 1 under reference it was recorded as follows:—

"In the view of this Administration, the principles for the determination of seniority laid down in paragraph 31(7) of the Industrial Tribunal's Award in Reference No. 5 of 1957, are sound. As, however, the issue raised in this demand has already been referred to an Industrial Tribunal for adjudication (Reference No. CGIT-24 of 1960) that Tribunal's Award on the reference will be awaited. The Port Trust will request that Tribunal to defer giving its award on this issue until after 30th July, 1960, which is the date of expiry of the notice given by your union of the vacation of the Award of the Tribunal in Reference No. 5 of 1957".

It will thus be seen that whilst in this letter of 22nd July, 1960, the Port Trust was agreeable to submit to the jurisdiction of this Tribunal on this demand with the proviso that the jurisdiction should be exercised only after 30th July, 1960, when the union's notice terminating the Das Gupta Award would take effect and that Award would stand terminated, in its written statement, dated 13th October, 1960, which incidentally is signed by the same Deputy Secretary who signed its letter of 22nd July, 1960, it has urged that the order of reference, in so far as it relates to demand No. 1, is void and inoperative in law in as much as the award of Shri Das Gupta was in force on the day the reference was made. It will be noticed that though, as a result of the discussions held between the parties on 30th June, 4th, 6th, 8th and 18th July, 1960, after the reference of this dispute for adjudication to this Tribunal, the Chairman of the Port Trust was prepared to agree to the adjudication of this demand by this Tribunal after 30th July, 1960, at the hearing before me in June, 1961, almost a year after the Das Gupta Award was terminated, it was seriously contended before me by the learned Legal Adviser of the Bombay Port Trust that I had no jurisdiction to adjudicate on this demand because this reference was made by Government, prior to the date when the termination of the Das Gupta Award took effect. Strictly and technically speaking Shri Nariman's contention is correct and must be upheld, if I hold that para 31 of the award of Shri Das Gupta on issue No. (ii) in Reference No. 5 of 1957, applied not only to the principles of seniority governing promotions to certificated posts, but also to the promotions to non-certificated posts, such as the three posts under reference.

Demand No. (ii) in Reference No. 5 of 1957 referred to Shri A. Das Gupta for adjudication was in the following terms:—

"In the case of crews of the Port Trust vessels, should seniority be determined on the basis of the highest certificate held; should seniority of persons holding the same certificate be based on the date of obtaining the certificate?"

On the language of this demand Shri Maitra has argued that the question referred to Shri Das Gupta was only in respect of the principles of promotion relating to certificated posts i.e., posts for which competency certificates are required and that the entire award of Shri Das Gupta on this demand, which is at para 31 of his award, applies only to certificated posts and not in respect of promotions to

posts of Seacunnies, Tindals of Lascars, Tindals of Stokers etc., which admittedly are not certificated posts, but only qualification posts for higher certificated posts.

Shri Nariman for the Bombay Port Trust, has, on the other hand, laid emphasis on the words "in the case of the crews of the Port Trust vessels" appearing in the demand and he has argued that before Shri Das Gupta, Shri Maitra's greatest grievance was with regard to the principles of promotion to certain non-certificated posts, particularly to the posts of greasers from those of firemen. He has referred to the observations in the Das Gupta Award which bear out this contention and from which it is clear that before Shri Das Gupta, Shri Maitra had on demand No. (ii) argued about the principles governing promotion to non-certificated posts also. Shri Nariman has also cited para 16 of the written statement of claim which Shri Maitra's Union had filed before Shri Das Gupta in Reference No. 5 of 1957, where it was stated as follows:—

"The rules of seniority based on the length of service were, therefore, bad, unjust and uncalled for."

Shri Maitra has sought to argue that those remarks were made only in respect of certificated posts but it does appear that the remarks were general remarks and related to principles of promotion to non-certificated posts also. It is clear from a perusal of the award of Shri Das Gupta that the dispute before him was treated by both parties and argued as one with regard to promotion to posts both certificated and non-certificated and there is sufficient intrinsic evidence in the discussions and the directions in the Award to show that the award was meant to apply not only to certificated posts but to non-certificated posts as well.

The stand of Shri S. J. Deshmukh, Assistant Secretary of the Bombay Port Trust Employees' Union was different from that of Shri Maitra. Shri Deshmukh's contention was that demand No. (ii) in Reference No. 5 of 1957 covered the question of the principles of promotion to be applied to both certificated and non-certificated posts. But he argued that the principles laid down in sub-para (7) of para 31 of the award governed the determination of seniority for promotion to posts for which certificates are statutorily necessary. I am not satisfied that this stand is correct.

Under paragraph 31 of his award Shri Das Gupta directed as follows:—

"I have very carefully considered the materials and circumstances of the present case and I lay down some broad principles for guidance in the matter of promotion for the deck crews and the engine room crews of the flotillas—both steam vessels and motor and diesel vessels under the Chief Engineer and the Deputy Conservator."

The principles are laid down in the 9 sub-clauses which follow and sub-clause (1) therefore states:—

"Promotion shall be according to seniority-cum-suitability."

Sub-clause (6) of paragraph 31 deals with filling any vacancies in posts which are considered qualifying posts or posts for training for higher tests in the marine service e.g. seacunny on the deck and greaser in the engine room of the motor and diesel vessels. The direction is that vacancies to such posts may be filled up by men without competency certificates only for period or periods as are considered, by the departmental heads, sufficient to enable them to qualify for the test for higher posts. There is no doubt that the direction in sub-para 6 covers non-certificated posts such as Seacunnies, which is one of the posts specifically mentioned in the present demand under reference. Sub-para (7), which has been the subject of so much controversy before me, lays down the guiding principles for ascertaining comparative seniority for certain posts. Sub-clause (c)(i) of sub-para 7 states as follows:—

"The candidate who possesses any such certificate shall have priority over those who have none."

Shri Nariman has contended, and I think with justification, that this clause shows that the principles laid down in sub-para 7 for ascertaining comparative seniority also apply to non-certificated posts.

On a careful perusal of the discussion on demand (ii) in Reference No. 5 of 1957 as appearing in Shri Das Gupta's Award and the directions contained in para 31, thereof, I am satisfied that that award laid down the guiding principles to be applied in the matter of promotions for all categories of certificated and non-certificated posts in the case of crews of the Port Trust vessels including the posts of Seacunnies, tindals of lascars and tindals of stokers.



It must, therefore, be held that the present demand was covered by the directions contained in para 31 of the Das Gupta Award in Reference No. 5 of 1957. It must, therefore, also be held that as the Das Gupta Award had not been terminated by the date the present order of reference was made, the demand under reference which, on the date of this reference, was governed by the Das Gupta Award could not be referred for adjudication to a Tribunal. I, therefore, uphold the preliminary objection of the Bombay Port Trust and hold that the reference to adjudication of this demand is invalid and I have no jurisdiction to entertain the same.

I, however, cannot close the discussion on this demand without expressing my disapproval of the attitude of the Bombay Port Trust in urging at the hearing this technical objection about the validity of the reference of this demand to adjudication, after the Administration had in its discussions with the Union, (after this reference was made) as recorded in its letter dated 22nd July, 1960, in terms agreed to this demand being adjudicated upon by this Tribunal after 30th July, 1960, and thereby preventing adjudication on the merits of a subject matter which has been the cause of so much strife between the parties.

#### **Demand No. 2:**

"Sanction for the creation of extra posts of Seacunnies sanctioned by the Administration should be implemented forthwith and equal number of posts of lascars be also created so that Tindal of Lascars would not be called upon to work as Lascars."

At the outset it may be stated that both parties were agreed that sanction for the creation of extra posts was not of "seacunnies" as incorrectly stated in the demand, but of "tindals of lascars."

In its letter dated 22nd July, 1960 recording the conclusions reached on this issue after discussion between the Chairman of the Bombay Port Trust and the B.P.T. General Workers' Union and the Bombay Stevedores and Dock Labourers' Union, it was stated as follows:—

"In regard to the first part of the demand it is pointed out that the posts which the Trustees have sanctioned are 10 temporary posts of Tindal of Lascars (and not of Seacunnies as stated by you) in lieu of an equal number of existing posts of Lascar, 1st Class, on the tugs 'Amar', 'Arjun' and 'Anand'.

The letter further recorded:—

"It was pointed out by the Chairman during the discussions that if the posts of Tindal of Lascars are to be operated without holding in abeyance an equal number of posts of Lascar, 1st class, it would be necessary for the entire cadre of Seacunnies (including the Tindals of Lascars) to work in 8 hour shifts and to forgo overtime. This was agreed to by your union but was opposed by the Bombay Stevedores & Dock Labourers' Union. In the circumstances, it is proposed to await the Award of the Industrial Tribunal, to whom the issue has already been referred.

The second part of the demand, viz., the creation of additional posts of Lascar, was dropped by your union."

Shri Maitra at the hearing agreed that 10 posts of tindals of lascars in the scale of pay Rs. 60-2-70 had been created and thus the first part of the demand under reference had been satisfied. After some discussion Shri Maitra stated that he was prepared to accept the settlement already reached as a settlement of the whole of the demand and therefore he did not press the demand any further. On 29-6-1961, the parties were agreed that there should be a direction for up-grading of the 10 posts of Lascars to those of Tindal of Lascars and the 10 posts of Lascars to remain in abeyance and the Seacunnies to work as lascars and I, therefore, direct accordingly.

#### **Demand No. 3:**

"Service rendered by stokers as tindal of stokers be recognised as in the past for qualification certificates and appearing for competency certificate examination."

It is admitted that stokers are asked to work as tindals of stokers, but unfortunately the set up in the Bombay Port Trust does not specifically provide

rendered by stokers as tindal of stokers used to be certified by the Deputy Conservator of the Bombay Port Trust as qualifying service for eligibility to appear for the examination for second class driver's certificate. It, however, appears that the mercantile marine department which holds the certificate examination has asked for information regarding details of the duties performed by the tindals of stokers. The grievance of the union was that the Port Trust authorities are not giving certificates as principal stoker or tindal of stokers, and it does not specify the outles and responsibilities discharged by a stoker when working as principal stoker or tindal of stoker, to the mercantile marine department, so as to be acceptable to them. Shri Nariman, however, stated that the Port Trust was certifying a stoker as principal stoker when he worked as such and as an illustration thereof he produced a certificate dated 25th March, 1960, in favour of one Mohamed Kassam. He also stated that similar certificates were issued during 1961. In the Bombay Port Trust's letter dated 22nd July, 1960 recording the conclusion reached on this demand during the discussions between the representatives of the union and the Chairman of the Port Trust it was recorded as follows:—

"It was explained by the Chairman that service rendered by Stokers as Tindal of Stokers has hitherto been certified by the Deputy Conservator as qualifying service for eligibility to appear for the examination for a 2nd class Driver's Certificate. The Mercantile Marine Department has, however, asked for information in regard to the precise duties pertaining to the posts of Tindal of stokers. This information is being collected by the Deputy Conservator and will be supplied to the Mercantile Marine Department as soon as possible. The final decision in the matter rests with that department. In the circumstances, the issue does not survive at present."

It is no doubt true that the final issue of the certificate rests with the Mercantile Marine Department but what the union wants is that the Port Trust should furnish the particulars of the duties discharged by the stokers as tindal of stokers or principal stoker and the only direction that I can give is that if the information about the duties performed by stokers working as tindal of stokers or principal stoker is not being furnished to the Mercantile Marine department, the same should be done from the date this award comes into force.

#### *Demand No. 4:*

"The tugs, 'Uran', 'Navah', 'Raja', 'Raman', 'Rahul' and 'Rudra' should not be detailed for work at Butcher Island as the equipments of the said tugs are unsuitable for working outside the Dock areas. If the administration wants to utilise these tugs for Butcher Island and add to the risk of the crews, the crews should be compensated suitably. The quantum of such compensation to be decided in consultation with this Union."

This demand is in two alternative parts. Firstly, the union wants that these six tugs should not be detailed for work at Butcher Island on the grounds that the equipment on them is unsuitable for work outside the dock area and there is a risk involved in working them outside the dock areas. The alternative demand is that if the Administration still desires to continue to work these tugs outside the dock area, the crew should be compensated by being paid a risk compensatory allowance.

The tugs employed by the Deputy Conservator, are classified into dock and harbour tugs, the former being used only in the dock area. The six tugs named in this demand were originally dock tugs but the Port Trust has obtained certificates from the Mercantile Marine Department, Government of India, enabling them to use the tugs "URAN" and "NAVAH" outside the dock area in the harbour, subject to certain conditions laid down in the said certificates. The other four dock tugs, viz., "RAJA", "RAMAN", "RAHUL" and "RUDRA" are new diesel engine tugs with up-to-date machinery and equipment and were purchased only in about December, 1959, and the Bombay Port Trust has also secured the necessary certificates from the Mercantile Marine Department which enable them to operate them at Butcher Island. The Port Trust also has four harbour tugs viz., "AZAD", "AMAR", "ARJUN" and "ANAND" which are operated for work at Butcher Island. The union's contention is that these six dock tugs are unsuitable for work at Butcher Island, as they are not suitably equipped for that purpose, like the harbour tugs 'Azad', 'Amar', 'Arjun' and 'Anand', which are specially equipped for work outside the enclosures of the dock area in the harbour; that the harbour tugs have sleeping accommodation and sanitary arrangements etc., for the crew.

for quick manoeuvring in case of an emergency; in short, that the construction of the harbour tugs is such that they are able to ply safely outside the dock limits even during rough weather or high seas. As against this, the dock tugs have no arrangement for proper accommodation of their crew, who have either to keep standing or sit in crouched positions and there are also no sanitary arrangements or provision for cooking. The union has further objected to the use of these tugs in the harbour on the grounds (1) that these tugs are not provided with mechanically operated 'windlass' to heave or lower the anchor which has to be manually operated; that for either heaving or lowering the anchor all the lascars are required to man the anchor, with the result that no lascar is left to attend to the other work, which consequently gets delayed; (2) that the tugs 'URAN' and 'NAVAH' are not provided with any compass for the purpose of finding their bearings and direction which according to the union becomes necessary in the event of a heavy fog between the mainland and Butcher Island, (3) that the coaming of these tugs are very low and if caught in the high seas the entire deck is liable to be dashed by waves (4) that the tugs are very low and are subject to heavy flooding in the open water; (5) that these dock tugs are provided with single screw engines, (not double screw engines like the other tugs) which results in slow manoeuvring during emergency in a heavy sea.

The case for the Bombay Port Trust, as stated in its written statement, is that the Mercantile Marine Department of the Government of India, which is the authority appointed by the Government to look after the safety of persons employed on vessels and to determine the suitability of any vessel for plying within specified limits, has certified all these six tugs as fit for use well beyond Butcher Island, and it has annexed copies of the certificates of survey issued in respect of each of these vessels. It is clear from these certificates that Butcher Island lies well within the restricted limits prescribed for the movement of these vessels during foul weather. According to the Port Trust, the harbour tugs, 'Azad', 'Amar', 'Arjun' and 'Anand' are equipped for work up to Port limits which are far beyond the inland water limits. The Port Trust has pointed out that mechanically operated anchors are not considered by the Mercantile Marine Department as necessary, nor are they necessary, for inland steamship vessels nor obviously is any sleeping arrangement for the crew necessary on these tugs as the crew are on board only during shift working hours. The Port Trust has denied that heavy fog is ever encountered in the Bombay harbour and has stated that the Masters of the dock tugs can easily steer their vessels in the case of an emergency by the many visible landmarks. It has also denied that the coaming of the tugs 'Uran' and 'Navah' are low. It is stated that tugs equipped with single screw engine are easier for manoeuvring than vessels equipped with twin screws. The Port Trust in its written statement has specifically stated:—

"The employers state that even though the dock tugs are perfectly safe for use at Butcher Island they are sent to Butcher Island only when harbour tugs are not available due to breakdowns for repairs or due to weekly offs and that too only when the sea is not rough or choppy. The employers submit that the very fact that the dock tugs have been certified by the Mercantile Marine Department for operating in Inland Waters, the limits of which prescribed even for foul weather are far beyond Butcher Island, is conclusive on the question whether the said tugs are safe for use at Butcher Island."

Both parties have also led oral evidence on this issue. The union examined Shaikh Ahmed Shaikh Hussain, Inland Master of Tug 'NAVAH' (W.W. 1) who has been working as Master of the Tugs 'URAN' and 'NAVAH' since they were purchased in 1946. He deposed that during these last eight or nine years, he was never asked to take either of these tugs to Butcher Island during the monsoon period and that it was only 1960 that for the first time he was asked to take his tug to Butcher Island, because some two or three big (harbour) tugs were under survey. He further stated that under orders he had taken his tug to Butcher Island on two occasions during the monsoon of 1960. Except for this, and the one other occasion when he took the 'NAVAH' near the prong reef in connection with a rescue operation, he had never been asked to take his tug to Butcher Island. In his opinion, it was not safe to take the tug 'NAVAH' to Butcher Island during the monsoon season because it has no compass, no chart is supplied and there is no arrangement where the chart could be spread out and consulted. He further stated that there are no searchlights on these tugs; that the raft buoy in the tug is not fixed in any particular place in the tug; that the anchor weighs 3 cwt. and cannot be lifted to be dropped in the water even by the 5 lascars employed on these tugs; that the anchor if once dropped cannot be heaved up easily as its lifting has to be manually operated. He further stated that there were no

In the harbour tugs which regularly go to Butcher Island. He also pointed out that as far as he remembered there was an order of the Deputy Conservator by which harbour and dock tugs were prohibited from going alongside of Butcher Island and that it was because of this that he had to keep his tug about 50 to 100 feet away from the jetty at Butcher Island on the two occasions when he had taken his tug there. He further stated that on these two occasions he had experienced considerable difficulty due to heavy swells because the sea water lashed even the bridge of the tug and the crew had considerable difficulty in staying on the dock. He admitted in cross-examination that in the Mercantile Marine Department's certificate different limits for plying these vessels in the harbour during fair and foul weather had been prescribed. He admitted that Butcher Island was within three miles of the foul weather limit, but he stated that during the monsoon the tug had to counter the direction of the wind and current and make a detour over a long area to reach Butcher Island. He stated that after he had taken the 'NAVAH' to Butcher Island during the monsoon, he had mentioned to the then Senior Dock Master, Shri Chatterjee, that it was unsafe to do so and that Shri Chatterjee had told him that he would mention this to the Deputy Conservator, Shri Rego; that he also asked him (witness) to mention this to Shri Rego which he had done and he was then assured that he would not be pressed to take the tugs to Butcher Island during rough seas or foul weather. He also stated that during the two occasions on which he had taken 'NAVAH' to Butcher Island the sea was not stormy and that he had experienced conditions which normally prevailed during that month. In his opinion a compass becomes necessary because during the monsoon season the visibility is limited to a distance of 50 ft. As regards the time taken for reaching Butcher Island he stated that it took 40 to 50 minutes to reach Butcher Island and about the same time to return, and that it took 2 to 2½ hours to attend to the oil tanker at Butcher Island.

The Port Trust examined two witnesses on this demand, namely, Shri G. M. Rana, B.Sc., B.E., Acting Mechanical Superintendent and Shri Bomi Jahan Bux Bhandara, Senior Master Pilot. Shri Rana in his evidence expressed the opinion that a tug being heavier and having greater draft and being longer in length than the launch, was steadier. This witness had travelled to Butcher Island only in the tank tug M. R. ANIK and her sister vessels and not in any of the harbour or dock tugs and when it was directly put to him in cross-examination, he could neither confirm nor deny that dock tugs were less safe than the tank tug M. T. ANIK or the launches such as "Kamini" and "Shalini", for going to Butcher Island.

The second witness of the Port Trust, Shri J. B. Bhandara, was more positive in his evidence. In his opinion it was safer to go from the docks to Butcher Island in the monsoon or choppy sea in a tug than in a launch. In cross examination he clarified that he had in mind a dock tug rather than a harbour tug, and stated that between a dock tug and a harbour tug, he would prefer to go by the harbour tug, which is a larger vessel. He, however, admitted in cross-examination that as compared to the crew on a tug the crew in a launch would be exposed, to less danger in stormy weather and in choppy seas and that there was less chance of the crew in a launch being thrown overboard than the crew of a tug during stormy weather and a choppy sea. But he went on to add that a launch being a smaller vessel is more likely to capsize in a storm than a tug.

I may state that at my suggestion an inspection of one of the dock tugs, viz., the 'Navah', was arranged and I inspected it with the representatives of both parties, and a demonstration was given as to how the anchor on this tug is lowered and heaved up. I also saw the tank tug M. T. Anik. I may state that this inspection helped to better appreciate the submissions of both parties and the evidence of their witnesses.

The demand as I have stated earlier is in two parts. The union's first demand is that the six tugs named in the demand should not be detailed for work at Butcher Island as the equipment of the said tugs are unsuitable for working outside the dock area. To this the answer of the Port Trust, which to my mind would be conclusive, is that the mercantile marine authorities of the Government of India whose duty it is to look after the safety of persons employed on vessels and to determine the suitability of any vessels for plying within the specified limits, had certified these six tugs as fit for operation upto a limit even beyond Butcher Island. The evidence, both oral and documentary, on record does not support the union's contention that the equipment on these tugs is such as would make their working unsuitable outside the dock area. Much has been made by

duty on these tugs only during each shift, and it is difficult to imagine why there should be arrangements for sleeping and cooking for the crew when they are on duty only in one shift, and as admitted by the witness of the union, the actual time taken for these tugs to reach Butcher Island is about 40 to 50 minutes and an equal time to return, and they are detained at Butcher Island only for about 2 to 2½ hours to attend to the oil tankers there.

With regard to the alternative demand for compensation to these workmen in the shape of a risk allowance, the case of the union is that the crew of these tugs run a risk when these tugs are asked to go to Butcher Island during stormy weather and choppy seas specially during the monsoon. On this point they rely upon the following statement of the Port Trust contained in its written statement:

"The employers state that even though the dock tugs are perfectly safe for use at Butcher Island they are sent to Butcher Island only when harbour tugs are not available due to breakdowns for repairs or due to weekly offs and that too only when the sea is not rough or choppy."

The witnesses of the Port Trust have also admitted that the dock tugs are sent to Butcher Islands only when the harbour tugs and launches are not available. Therefore the position appears to be that even after these vessels were certified by the mercantile marine department as being seaworthy for operation at Butcher Island even during foul weather, the Port Trust itself has not been sending these dock tugs to Butcher Island during rough weather and choppy seas. It is established from the evidence of the union's witness Shaikh Ahmed Shaikh Hussain, who is the only witness who had travelled on a dock tug to Butcher Island, that on the two occasions he had taken these tugs to Butcher Island during the monsoon, he had experienced considerable difficulty because of heavy swells. The observations of the Port Trust in its written statement namely that these six dock tugs are not detailed for work at Butcher Island in stormy weather or choppy seas even though they have been certified by the Mercantile Marine Department, could well be treated as an assurance for the future also. In view of this, I do not think that a case has been made out for awarding a compensatory risk allowance to the crew of the dock tugs detailed for work at Butcher Island as it is not established that any risk worth compensating is run when these tugs are sent to Butcher Island during fair weather. I may further state that the union in its written statement has not stated at what rate risk compensation should be awarded nor was any rate of compensation even suggested at the hearing. In the result, I reject this demand.

#### **Demand No. 5:**

"The Administration should take effective steps to reduce the delay in survey and other repairs during laid up. During laid up or survey the conditions of service of the flotilla crews should not be changed and they should continue to get overtime working."

That there is scope and necessity for reducing the period of lay up of vessels for survey or repairs is not disputed by the employers who, however, state that constant endeavour is being made to seek ways and means of reducing the period of lay up. The delay in completing the survey and repairs results in the crew getting only eight hours work instead of 12 hours, thus depriving them of the chance of earning overtime dues. It appears that a Committee has gone into the question of how these delays could be reduced. The Port Trust in its written statement has referred to the letter dated 13th June 1960 addressed by the Deputy Conservator to the Secretary, Bombay Port Trust, containing certain suggestions for eliminating the unnecessary delay in the survey of vessels and explaining how the crew of a vessel laid up for survey is employed during the period of survey. It appears that this matter is under consideration by the authorities who appear to be anxious to reduce the delay caused in survey and repairs to vessels. In its letter of 22nd July 1960, the Administration has recorded that during the discussions between it and the union it had assured the union that the Port Trust is, and has always been, in agreement with the view that the period of lay up of vessels for survey or repairs should be reduced to the minimum and that action is constantly being taken to find out ways and means of reducing the periods of lay-up. With regard to the demand that the crew of the laid up vessels should continue to get overtime work, the Administration rejected the same as overtime work could not be claimed by the workmen as a matter of right. It appears to me that the Port Trust is alive to the desirability of reducing delays and is taking the necessary steps to reduce them. No case has been made out by the union for its claim for payment of overtime dues to the workmen during the period the vessel is under survey or repairs.

The demand is, therefore, rejected.

*Demand No. 6:*

"The Departmental orders of the Deputy Conservator, Bombay Port Trust placing all the vacancies in the deck crew as 'temporary' resulting in the reversion of the men holding permanent posts to lower posts be cancelled forthwith."

This is one of the demands that has been settled and the terms of settlement are recorded in the Bombay Port Trust's letter of 22nd July 1960, where it is stated as follows:—

"The Chairman pointed out that it would take some time to arrive at a final decision as to how long the tugs 'Handy' and 'Ready' should continue to be in service. That was the reason why, in the meantime, all vacancies were being filled on provisional basis. The Administration proposed to treat such provisional appointments as appointments to permanent vacancies for purposes of clause (8) of paragraph 31 of Shri Das Gupta's Award in Reference No. 5 of 1957 and that any party who was aggrieved by the orders that may be issued in any particular case could seek relief from the Industrial Tribunal."

At the hearing, the parties were agreed that I should give a direction in the above terms which constitute a settlement of the demand. The union however wanted an assurance that the reversions that had been set aside by the Port Trust should not again be re-opened for reversion or demotion under sub-clause (8) of para 31 of the Das Gupta Award in Reference No. 5 of 1957, and Shri Nariman stated that the reversions that had been set aside under the settlement will not be reopened and I record that as part of the award on this demand.

*Demand No. 7:*

"First class lascars given chances to work as seacunnies in order to appear for the necessary competency certificate should not be reverted after one year as is done at present, but should be allowed to continue to work as seacunnies till they get at least three chances for appearing for examination."

It was stated at the hearing that there had been a settlement between the parties on this demand as recorded in the Bombay Port Trust's letter of 22nd July 1960, in which it is stated as follows:—

"It was agreed that a 1st class Lascar who is promoted to act as a Seacunny, and who fails to obtain a Syrang's Certificate in his first attempt should be allowed to serve as a Seacunny for a total period not exceeding 18 months before being reverted."

At the hearing before me, it was pointed out that there was some clarification necessary in the language of the settlement and it was agreed by the parties that the direction should be that a person who has completed qualifying service in the post of seacunny which would enable him to appear for a test will be reverted if he fails to appear for the test within a fortnight from the date of the completion of the qualifying period, except for reasons beyond his control and I direct accordingly.

*Demand No. 9:*

"The seniority list of the employees of the flotillas should be immediately drawn up and exhibited on the notice boards, and at the place of work of the employees."

During the discussions between the parties that took place after this demand was referred to adjudication, the administration had agreed that the seniority list of the employees of the flotillas prepared in accordance with the existing orders regarding determination of seniority would be drawn up expeditiously and exhibited on the notice board. It was further agreed that the unions would be furnished with copies of the seniority lists (See exhibit W-1, collectively). The unions complained at the hearing before me that the seniority list had not yet been prepared or exhibited. Shri Nariman for the Port Trust has urged that the difficulty has been whether the seniority is to be determined on a pool basis or otherwise. At the hearing it was agreed that the management would comply with the agreement as recorded in the Bombay Port Trust's letter dated 22nd

July 1960 by 31st July 1961 but since that period has expired, I direct that the Port Trust should comply with the demand by 31st October 1961, if not already complied with.

**Demand No. 10:**

"Appointments or promotions given to employees of the Deputy Conservator's Department should be confirmed in writing by issue of letters to the employees."

During the discussions that took place between the parties after this reference was made, it was agreed that the possibility of furnishing the employees concerned with a copy of the office order pertaining to the appointments or promotions would be investigated. It was also agreed that if no difficulty was experienced copies of such office orders would be displayed on the notice boards in the head office or at the offices of the dock masters, as the case may be, with immediate effect.

At the hearing it was agreed that the Administration will issue copies of orders of appointments or promotions to permanent vacancies and I direct that this practice should come into operation from 1st November 1961.

**Demand No. 11:**

"Appointments to temporary posts of cleaners on Diesel vessels or tugs should not be made from amongst the substitutes, but from the link of stokers on steam vessels who are already in employment."

At the discussions that followed this reference, the Bombay Stevedores and Dock Labourers' Union opposed this demand and put forward the view that the claims of substitutes who rendered faithful service to the Port Trust should not be ignored. The Chairman in this connection pointed out that arrangements had already been made to fill the posts of cleaner on diesel vessels, which had been purchased in replacement of existing steam vessels, by the transfer of stokers from the steam vessels. As regards the posts of cleaner on the old diesel vessels, the Chairman pointed out that as these posts were in an entirely different channel of promotion, the stokers of the steam vessels could not as a matter of right demand transfer thereto. He stated that such an arrangement could only be made by the employer as a matter of concession. As, however, there was no agreement between the two unions on the subject, my award is solicited. The Bombay Port Trust in the concluding paragraph of its written statement on this demand has stated that stokers transferred to the posts of cleaners on diesel vessels would be entitled to draw their pay in the grade of cleaners on the diesel vessels. They have further stated as follows:—

"While, however, the employers, as a matter of concession, would be prepared to transfer stokers on the steam vessels as cleaners on the diesel vessels drawing their pay as cleaners as there are disputes in this matter as between the two unions concerned, no decision could be made in the matter by the Employers."

At the hearing, however, the Bombay Port Trust General Workers' Union represented by its General Secretary, Shri S. Maitra, accepted the Bombay Port Trust's assurance as given in the written statement extracted above. The other union viz., the Bombay Stevedores and Dock Labourers' Union, which, had opposed the suggestion of the Port Trust has not appeared at the hearing before me to object to the suggestion made by the Port Trust. I therefore, make an award in terms that the employers should transfer the stokers on the steam vessels as cleaners, on the diesel vessels drawing their pay as cleaners, and that this should be treated as a concession. The directions in this Award shall come into force from the date this award becomes enforceable.

**Demand No. 12:**

"The assurance given by the Chairman, Bombay Port Trust to bring on the permanent schedule the employees working on the Chief Engineer's flotilla who have put in more than one year's service be implemented forthwith and the employees concerned be declared as permanent."

It appears that on 23rd October 1959 a general body meeting of the Bombay Port Trust General Workers' Union by resolution *inter alia* demanded that—

(3) "The administration should take immediate steps to bring the following staff on permanent schedule—

(a) all employees of the Dredging and Workshop flotillas of the Chief Engineer's Department who have put in more than one year's service."

and this resolution was forwarded to the General Manager of the Bombay Port Trust by the Union's letter dated 27th October 1959. Upon receipt of the union's

letter, there were discussions between the Chairman of the Port Trust and the representatives of the union and by its letter dated 29th October 1959 the Secretary of the Bombay Port Trust recorded the conclusions that had been reached as a result of those discussions. On demand No. 3(a) the conclusion or decision reached was stated as follows:—

"A breakdown of temporary employees according to the length of temporary service (less than one year, between 1 and 3 years, between 3 and 5 years and over 5 years) will be collected with a view to evolving proposals for absorbing permanently as fair a percentage as can reasonably be absorbed according to requirements."

It is the union's grievance that no steps were taken to implement this undertaking and therefore the union raised the demand again by another resolution passed at a general body meeting of its members held on 20th June 1960, when the demand as referred to the Tribunal was communicated to the management by the union's letter of 23rd June 1960. After this reference was made by Government on 26th June 1960, discussions on this demand were held on the 20th and 21st July 1960 between the parties and the same have been recorded in the Port Trust's letter dated 29th July 1960, where it is recorded that the administration had under consideration for transferring to the permanent establishment certain categories of staff mentioned in that letter. That letter went on to record that the proposals contained in that letter would shortly be placed before the Trustees and the outcome would be communicated to the union as soon as possible. In that letter the Deputy Secretary of the Bombay Port Trust categorically recorded:—

"On the above position being explained to you by the Chairman, you agreed that the demand did not survive for adjudication."

There is reply on record from the Union denying this assertion.

It appears that the Chief Engineer was requested to examine the feasibility of transferring the posts in question to the permanent establishment and he submitted proposals for transferring to the permanent establishment 22 scheduled posts and 77 non-scheduled posts as set out in statements marked 'A' and 'B' annexed to the written statement of the Bombay Port Trust at pages 80 and 81. The proposal was considered at the meeting of the Finance and General Committee of the Bombay Port Trust held on 16th August 1960 and its recommendations for transferring to the permanent establishment 99 posts as mentioned above, were placed before the meeting of the Trustees, which by its Resolution No. 640 dated 23rd August 1960 approved of the recommendations of the Committee (Exhibit Q to the Port Trust's written statement).

The first thing to note is that the demand is based on an assurance alleged to have been given by the Chairman of the Bombay Port Trust to bring on the permanent schedule the employees working on the Chief Engineer's flotilla who have put in more than one years service and the demand is that that assurance be implemented. But as I have pointed out the assurance which the Bombay Port Trust gave on demand No. 3(a) was not in those terms but was that, "a breakdown of temporary employees according to length of temporary service would be collected with a view to evolving proposals for absorbing permanently as fair a percentage as can reasonably be absorbed according to requirements." Shri Moltra has urged that the assurance of the Chairman referred to in the demand was not the one contained in the Bombay Port Trust's letter of 29th October 1959, but in the Deputy Conservators letter of 23rd June 1960, where on demand No. 12 it was stated as follows:—

"In regard to demand No. 12 it may be pointed out that the question as to how many posts sanctioned for the second shift working of the dredgers can be made permanent, is being actively considered by the Chief Engineer. It will be realised that a decision in the matter is rendered difficult on account of the uncertainties in regard to the future dredging programme. I am, however, to point out that non-scheduled staff appointed to the temporary posts in question get all the service benefits admissible to non-scheduled permanent staff, on completion of one years continuous service. Their interests are also safeguarded by the fact that appointments to these posts, except in leave vacancies, are not considered as appointments in "temporary vacancies" for the purposes of sub-clause 8 of para 31 of the Tribunal Award referred to above."



I may say that I fail to see how this can be treated as an assurance that all those who had put in one year's service would be brought on the permanent schedule. This letter only explained an existing service rule under which non-schedule staff appointed to temporary posts in question get all the service benefits admissible to non-schedule permanent staff. Thereafter, discussion ensued between the representatives of the employers and the employees on 20th and 21st July 1960 when the proposals of the employers to transfer to the permanent establishment categories of the staff sanctioned for the second shift working of the different vessels mentioned in the Administration's letter to the union of 28th July 1960 were as stated by the Administration, accepted by the union's representatives as recorded in clear terms in the Bombay Port Trust's letter dated 29th July 1960. Shri Maitra at the hearing stated that the Union had not accepted those proposals in settlement of this demand, but if that were so one would have expected the Union, which is otherwise so vigilant, to have written in reply to the Administration's letter of 28-8-60 denying that assertion. The proposals were thereafter confirmed by the Trustee's Resolution No. 840 dated 23-8-1960. And in all 99 posts, (22 posts as stated in Appendix 'A' and 77 posts as stated in Appendix 'B') were made permanent. The details of these posts are given at pages 80 and 81 of the Port Trust's written statement. In view of all this, it is difficult to hold how the dispute in terms of this demand can be said to survive.

Shri S. J. Deshmukh, Assistant Secretary of the Bombay Port Trust Employees' Union, has filed a separate written statement on this demand but that written statement also proceeds on the incorrect assumption of an assurance having been given by the Chairman that all those with more than one year's service would be taken on the permanent establishment. The grievance of Shri Deshmukh appears to be that though these 99 posts have been put on the permanent establishment, it was not known which of the workmen had been made permanent in those posts. The employers have expressed certain difficulties on the grounds of proper determination of seniority in service, with regard to naming the personnel who have been made permanent. Shri Moitra has also made a grievance on this score, and I think that there is ground for this complaint. I do trust that the administration will, without much delay, declare which of the workmen have been appointed to the 99 posts which have been transferred to the permanent establishment.

The unions have referred to the fact that in his earlier proposals dated 30th October 1960, the Chief Engineer had proposed that 167 posts i.e., 61 per cent. of the temporary posts on the dredgers should be made permanent, but he was asked to revise this suggestion and he had thereupon made the present suggestion of making these 99 posts permanent. It appears that the earlier suggestion was made on the basis merely of the length of temporary service and not on the basis of requirements of posts and that is why the Chief Engineer was asked to revise his suggestion. The revised list was on basis of requirement and not merely on length of service and in fact contains suggestions for making certain posts permanent which have been temporary for less than one year. I am satisfied that the revised list of the Chief Engineer is on a more realistic basis, considering the future requirements of the dredger section. The revised statement therefore appears to be consistent with the assurance of the Chairman as recorded in the Bombay Port Trust's letter of 29th October 1959, referred to earlier.

The Union has made a grievance of the fact that only 8 posts on the Engineering side had been made permanent and Shri Moitra's argument is that in fixing this number the management had not really considered the demand on the basis of "as fair a percentage as could reasonably be absorbed according to requirement." But Mr. Nariman has pointed out that the number was fixed having regard to the anticipated permanent requirement in view of the dieselisation scheme. He has urged that it would be for the Administration to determine its fair requirement. In view of this explanation and considering that the proposal to make these 99 posts permanent appears to have had the unions consent when it was mooted, I do not think a case has been made out for interference by me.

The demand is therefore rejected.

**Demand No. 13:**

"The difference in the strength between fair and foul weather Pori Duty staff is considered to be most unfair and causing serious hardship to the men. The strength of the Pori Duty staff should be as it was in the year 1956 and they should be made permanent."

At the outset it may be stated that in the Bombay Port Trust the foul weather period is reckoned from 15th May to 30th November, and the rest of the year is considered as fair weather period. Briefly stated Pori Duty means watch duty

for safeguarding the vessel and its equipment and certain ancillary duties thereto. According to the union the deck staff on pori duty have, after the first shift duty is over, to clean the deck, attend to mooring ropes, fill up water tanks by connecting hose pipes and look after the safety of all equipment on board the vessel. They are also responsible for the safety of the vessel in the case of sudden storms, swells etc., as in the event of storm signal No. 4 and above, they have to send for the Master of the vessel for the vessel to be moved to a place of safety. In the engine room the pori duty men have to attend to the engines, tend the fire, do bunking, maintain water level and pressure of the steam at the required level. Therefore, according to the union the pori men have responsible duties and its grievance in this reference is two-fold; (1) that there are not adequate number of men employed on pori duty; and (2) that the men on pori duty during fair weather only have been made permanent in service whilst the men employed on pori duty during foul weather are retrenched at the end of the foul season. The union has also made a grievance of the fact that during fair weather only 61 workmen are employed on pori duty whereas in fair weather 93 workmen are employed. There has been a reduction of the pori duty staff since 1956 and the demand of the union is that the difference in the strength between fair and foul weather pori duty staff should be as it was in the year 1956 and they should all be made permanent.

Shri S. J. Deshmukh, Assistant Secretary of the Bombay Port Trust Employees' Union, in supporting the demand urged that in Calcutta almost half the staff is engaged on pori duty and in Madras more people are employed on pori duty than in the Bombay Port Trust. He has emphasised the strain involved in pori duty and has argued that there is scope for increasing the strength of the pori duty staff.

The Port Trust in its written statement has contended, and I think rightly, that it is the function of the management, with its knowledge of the day to day working of the administration, to determine how many workers and in what categories are required for the performance of any particular work. The Port Trust has stated that the present strength of the staff of different categories on pori duty work was finally determined by the Port Trust after a detailed consideration of the question. It has pointed out that prior to the implementation of the Minimum Wages Act, it was the practice in respect of vessels which worked only one shift for a skeleton crew to live on board after the termination of the regular shift hours. Normally, two men from the deck crew and some men from the engine room, their number varying with the different vessels, used to remain on board. The crew were not posted on duty by the Administration, but they mutually arranged amongst themselves to remain on board, but they were provided with certain facilities such as those of sleeping bunks, provision of bhandaries and other cooking facilities, such as free supply of stoves, coal, water and utensils, and these facilities were accepted by the workmen as adequate compensation for the duties they performed after the regular shift hours by arrangement amongst themselves and no payment was made for pori duty. It is pointed out that in respect of launches, barges, and floating crane "Sarus" under the Mechanical Superintendent, the practice for some of the crew to remain on board after the end of the regular shift hours was abolished in December 1953, and in respect of dredgers, with their attendant units, the said practice was discontinued from 15th June 1956. The Port Trust has annexed to its written statement two Resolutions of the Trustees dated 15th December 1953 and 22nd May 1956 whereby the former practice of pori duty was abolished and regular staff for watch keeping was sanctioned. Evidently there was discontent over these decision of the Port Trust among the workmen who complained that the regular staff sanctioned for watch keeping duty was not adequate. In view of the grievance of the union the Port Trust desired a thorough investigation into the need for and the extent of pori duty and the staff requirements in connection therewith. With this object, a departmental committee, consisting of officers of the Port Trust in the Engineering Department, was appointed on 18th June 1957 by Trustee's Resolution No. 678. The Committee's report was considered at the meetings of the Trustees held on 23rd September 1958 and 10th March 1959 and by Resolution No. 230 dated 10th March 1959, the Committee's recommendations with regard to pori duty staff were approved and it was decided to amend the schedule of staff accordingly. It is admitted that in determining the number of men required on pori duty Rear Admiral Soman, one of the members of the Board of Trustees, was also consulted.

In its written statement, the union has expressed disapproval of the Port Trust's action in having consulted Rear Admiral Soman on the ground that he was one of the Trustees of the Port Trust and as such could not be expected to give a decision in favour of the workmen. But it is clear that Rear Admiral Soman was consulted because of his considerable experience and knowledge of the staff

necessary for watch duty on vessels in the Bombay Port and I do not think that there was anything wrong in the Trustees having consulted him on this point and it appears to me that they rightly gave due weight to his opinion.

The union's demand is that there should be the same number of men on pori duty, both during fair and foul weather and that the strength of the pori duty staff should be the same as it was in the year 1956. Now, on the first part of the demand, it is pointed out by the Port Trust that more staff was required on pori duty, both during fair and foul weather and that the strength of the pori duty staff diately have to be removed to a sheltered place—for safety and for such sudden emergencies a larger number of men has to be employed on pori duty than during the fair season.

I accept this explanation of the Port Trust which appears to be perfectly justified. I am not satisfied that the union has been able to make out a case for equal number of men to be employed on pori duty during fair and foul weather.

At the hearing, the Unions grievance was that whilst the men on pori duty during fair weather have been made permanent, those on foul weather have been continued as temporary. The demand of the union for making permanent the pori duty staff employed during foul weather does not appear to be justified as the foul weather is only for the period from 15th May to 30th November each year i.e., for six and a half months in the year and the Union has not been able to show how the services of the staff could be utilised for the rest of the year, if they were to be made permanent.

I am satisfied that the number of men doing pori duty during fair and foul weather was fixed after an elaborate enquiry with regard to the needs of the Port Trust and I am not satisfied that a case has been made out by either Unions for making any addition to the present strength. Mr. Deshmukh has referred to a larger number of workmen being engaged on Pori Duty in other Ports, but that would not by itself be a justification, as it is well known that there is considerable variation in the practices in force and the method of working in the different ports. It must, however, be remembered that after all it is for the management to determine the adequate number of staff for its requirements and the Bombay Port Trust has fixed the number of its Pori duty staff after a detailed enquiry of its actual needs. I am, therefore, not satisfied that any case has been made out by the Unions in justification of its present demand, which is, therefore, rejected.

This award will also cover the demand under item (d) of Demand No. 24.

#### *Demand No. 14:*

"As it has been demanded for the Deputy Conservator's flotillas the crew of the Chief Engineer's flotilla should also be treated in the same manner and all persons once promoted to a higher post should not be reverted, transferred to a lower post on any other employees senior in service securing necessary competency certificate. Persons who have been reverted on this account should be given back their post to which they had been promoted."

Both parties in their written statements and at the hearing have stated that this demand has been settled in terms of paragraph 6 of the Port Trust's letter No. PU/GEE-G(u)/1145 dated 23rd June 1960. The relevant paragraph is in following terms:—

"In regard to demand No. 12, it may be pointed out that the question as to how many posts sanctioned for the second shift working of the dredgers can be made permanent, is being actively considered by the Chief Engineer. It will be realised that a decision in the matter is rendered difficult on account of the uncertainty in regard to the future dredging programme. I am, however, to point out that non-scheduled staff appointed to the temporary posts in question get all the service benefits admissible to non-scheduled permanent staff, on the completion of one year's continuous service. Their interests are also safeguarded by the fact that appointments to these posts except in leave vacancies, are not considered as appointments in "temporary vacancies" for the purposes of sub-clause 8 of para 31 of the Tribunal Award referred to above."

As the parties have stated that they have settled this demand in the above terms, I make an award accordingly.

**Demand No. 15:**

"It was agreed that there should be five posts for steam vessel crews of the Chief Engineer's flotilla for the purpose of diesel training. Only two trained posts have been made available to the men. The balance of three trainee posts should be filled in immediately."

The steam powered craft of the Port Trust is gradually to be replaced by diesel powered vessels and in that connection a scheme which is known as the diesel training scheme, has been formulated prescribing the procedure for dieselisation. This scheme is embodied in the Bombay Port Trust Secretary's note dated 3rd December 1960 which was sanctioned by the Trustees' Resolution No. 1034 dated 6th December 1959 (exhibit V to the Port Trust's written statement). There is a need for training the staff of steam vessels for work on diesel powered vessels as otherwise the former would be liable to be retrenched when the diesel vessels begin to operate. The scheme of training was drawn up in consultation with the two major unions concerned viz., the Bombay Port Trust General Workers' Union and the Bombay Stevedores and Dock Labourers' Union. The major problem concerning the scheme is to train engine drivers, specially as motor engine drivers second grade in the first instance. It is agreed that the principles of the scheme as applicable to the Deputy Conservator's flotilla shall apply *mutatis mutandis* to the staff of the flotilla of the engineering department which is also being dieselised.

The wording of the union's demand suggests that there was an agreement or assurance that there would be five posts of trainees of engine drivers on the diesel powered vessels. The Port Trust in its written statement has observed that this assumption is incorrect; that the Port Trust had not ever agreed to create five posts for training engine room crew of steam powered craft for employment on diesel crafts. In its written statement the union has stated that one supernumerary post of driver second grade has been sanctioned on the diesel vessels to provide training facilities for the steam powered craft of the Chief Engineer's flotilla and another post of a driver second grade on the diesel vessel 'Karanjla' which had fallen vacant because of transfer of one of the incumbents to one of the new diesel vessels. At the hearing, the Port Trust stated that these were two posts immediately available and that on the commencement of the second shift working on the dredger 'Vikas', two second grade drivers on the diesel vessel 'Arun' would be transferred to the Vikas and the two posts on the 'Arun' will be available for training for the crew of the steam powered vessels.

After the hearing was over, on 16th September 1961 at my request the representatives of the parties appeared before me and stated that the second shift on the 'Vikas' had commenced from the first week of August 1961 and that the two second grade drivers on the diesel vessel 'Arun' had been transferred for that shift to the 'Vikas'. Thus, there are at present in all four training posts available for the crew of the steam powered vessels for training as drivers on diesel vessels, which is one less than the number of training posts claimed by the union.

Shri Maitra for the union has urged, with a certain amount of emphasis, that in view of the future programme of dieselisation at least five training posts should be available and he has, therefore demanded that the Administration should be asked to create one additional supernumerary post for training. Shri Nariman, on the other hand, has stated that the Port Trust has given anxious consideration to its dieselisation programme and considers that the four training posts for drivers are adequate and there is no need for an additional supernumerary post. The anxiety of Shri Maitra seems to be that when more diesel powered vessels are put into commission there would not be enough trained drivers available to man them, and his fear is that this may result in the retrenchment of some of the drivers on the steam powered vessels. However commendable this anxiety of Shri Maitra, I cannot say that the Port Trust can be said to be not alive to the necessity of making adequate provision for diesel training, keeping in mind its future dieselisation programme. This is essentially a managerial function of a technical nature in which a Tribunal would hesitate to interfere unless an overpowering case has been made out. In my opinion, considering that the Port Trust had never given an undertaking for providing five training posts as alleged by the Union considering that now four training posts are available, I do not think I can direct the Port Trust to create one additional supernumerary post. I am quite sure that if and when the Port Trust Administration feels that their dieselisation programme requires the provision of one more training post, it will not hesitate to create another supernumerary post for that purpose. In view of the fact that at present four training posts are available, and the Union in my opinion has failed to establish the immediate necessity of five training posts the demand for the fifth training post is rejected.

**Demand No. 16:**

"Vacancies of greasers and cleaners should not be filled in by outsiders or substitutes and should be made available to the employees in service working as stokers."

The parties stated at the hearing that this demand was settled and it is therefore disposed of as much.

**Demand No. 17:**

"The post of driver second grade on 'Karanjia' should be filled in immediately."

At the hearing the union stated that the demand has been satisfied and the Bombay Port Trust admitted that Shri S. D. Bhabha is working as second grade driver on the 'Karanjia'. No order is therefore necessary.

**Demand No. 18:**

"F. C. 'Sarus' should be attached to the Dredging flotilla and the condition of service of the employees of F. C. 'Sarus' should be made same as those in the dredging flotilla and the deck staff of Sarus should have common seniority with the deck staff of the dredging flotilla as the engine room staff have got common seniority."

It is admitted that on the engine room side the crew of the F. C. Sarus are treated on pooled seniority with the engine room staff of the dredger flotilla, but it is only in respect of some categories of the deck staff that the seniority of the crew of the F. C. Sarus is treated as separate. It was admitted at the hearing by Shri Nariman for the Port Trust that from the category of deck hands upto and inclusive of winchmen only the deck men of the 'Sarus' are treated as separate for seniority purposes. It is also admitted that promotion on the deck side above the post of seacunny is also on pooled seniority with the deck crew of the dredging flotilla. By my award, dated 28th April 1960 in Reference No. 11 of 1960, I had directed that seniority of the deck and engine room crew of the dock and harbour flotilla should be pooled instead of being separate on the basis of separate units. I think that that principle could well be extended to the deck crew of F. C. Sarus. It is not denied that F. C. Sarus is part and parcel of the dredging flotilla and that she is under the overall control of the Chief Engineer and therefore there does not appear to be any justification for the existing anomaly. The Bombay Port Trust in its written statement has only referred to a representation signed by 31 members of the crew of the F. C. Sarus (exhibit VI annexed to the written statement) in which it was requested that the 'Sarus' should be maintained as a separate and self-contained unit, but the Port Trust has left the decision of this demand to the Tribunal.

The Bombay Port Trust Employees' Union in its written statement on this demand has stated that the overwhelming majority of the deck crew of the dredging section and of the 'Sarus' are its members and that they do not desire that there should be common seniority for employees of the two sections, but no other reasons have been stated in justification of this. It was, however, urged by this union that the present longstanding practice of giving first preference to members of the crew from the 'Sarus', who hold the necessary certificate for appointment to posts in the dredging section, when an employee with a necessary certificate is not available in the dredging section, should be continued. Shri Nariman for the Bombay Port Trust characterised this demand as being fair enough and Shri Majtra was agreeable to accept the continuance of this practice. It was admitted by Shri Deshmukh at the hearing that if the demand under reference were granted, there would be no need for a separate direction that this practice should be protected.

I am satisfied that the demand under reference is justified and, I, therefore, direct that the F. C. Sarus should be attached to the dredging flotilla and that the conditions of service of the employees of 'Sarus' should be made the same as of the crew of the dredging flotilla and the deck staff of 'Sarus' should have common seniority with the deck staff of the dredging flotilla as the engine room staff who have already got common seniority.

**Demand No. 19:**

At the hearing, Shri Maitra on behalf of the Bombay Port Trust General Workers' Union withdrew this demand and the same is therefore dismissed as withdrawn.

*Demand No. 20:*

"The Dieselisation Scheme should be made applicable to Workshop flotilla."

It is admitted that the demand applies only to the engine room crew of the workshop flotilla as the dieselisation scheme applies only to the engine room crew and not to the deck crew. The demand as worded is that the dieselisation scheme should be made applicable to the workshop flotilla. The Bombay Port Trust in its written statement has stated that it is not true that the dieselisation scheme does not apply to the workshop flotilla. It has in its written statement stated, "if the dieselisation scheme is a scheme for training of the engine room crew of steam powered craft for employment on the diesel powered craft, then the Port Trust contends that the scheme is applicable to the workshop flotilla as well as the dredging flotilla of the Chief Engineer's Department". The Union in its written statement has claimed that there should be a merger between the workshop flotilla and the dredging flotilla for the purposes of appointment for training under the dieselisation scheme. Shri Maitra clarified that by merger he meant pooled seniority of the workshop staff with that of the dredging flotilla and that he was not suggesting the withdrawal of the workshop flotilla from the control of the Mechanical Superintendent. According to Shri Maitra this demand really involved a question of implementation of the application of the dieselisation scheme to the workshop flotilla, because the principle that the dieselisation scheme applies also to the workshop flotilla was conceded. He has urged that there should be no distinction between the workshop and the dredging flotilla as the principle of pooled seniority between the deck crews of the harbour and dock flotillas had been recognised by my award in Reference No. 11 of 1960. He has suggested that if the dredger flotilla is also divided into A., B. and C. categories as provided for in the dieselisation scheme, it would result in smooth working of the pooled seniority suggested by him. He has also argued that since the head of both the workshop flotilla and the dredger flotilla is the Chief Engineer there is no justification for any difference in seniority between the staff of the workshop and dredger flotillas.

The Bombay Port Trust in its written statement has pointed out that no diesel vessel is to arrive shortly to replace any of the steam vessels of the workshop flotilla, and, therefore, the crew of those flotillas where diesel engines are to replace steam engines are being given preference in training over the crew of the workshop flotilla. Shri Nariman stated that at present there is no pooled seniority between either the workshop and the dredging flotilla crews either on the engine or deck side. He has argued that pooled seniority was possible between the dock and harbour flotillas as there is a similarity in the nature of work done by those flotillas but that there was no such similarity in the nature of work done by the workshop and the dredger flotillas; that whilst the workshop flotilla is engaged in transporting men and material, the dredger flotilla merely does dredging work. Shri Nariman has pointed out that in the discussions with the Chairman the Union has agreed to drop this demand as recorded in the Bombay Port Trust's letter, dated 23rd June 1960, but Shri Maitra at the hearing denied this suggestion. I am impressed by the arguments urged by the learned Legal Adviser of the Bombay Port Trust. It is not denied that the workshop flotillas and the dredger flotillas are distinct and separate units though it may be that they have a common head officer who is in ultimate charge of both these flotillas. I am inclined to accept the Port Trust's contention that as in the near future there is not going to be any diesel vessel attached to the workshop flotilla, there is no immediate case for pooled seniority between the workshop and dredging flotillas. Shri Nariman has further pointed out that when new diesel units were added to the dredging section some persons from the workshop flotillas who volunteered for transfer to the dredging section were taken to the latter section in preference to recruitment of outsiders. With regard to Shri Maitra's reference to the harbour and dock flotillas Shri Nariman has pointed out that this reference was not correct inasmuch as the engine room staff of the two sections in the above flotillas, viz., the harbour and dock flotillas, had been observing combined seniority and no "merger" was r

A grievance has been made in the written statement of the union with regard to certain retrenchment staff of the S. T. 'Zeebin' and it is claimed that its crew should have been given opportunities for training on diesel engines so as to enable them to secure diesel endorsements and posting on the work-shop flotilla. To this, the Bombay Port Trust, in its written statement, has stated that the surplus engine room staff of the S. T. Zeebin would be given opportunities for training on the diesel side as and when occasion arises. Since no replacement vessel is likely to be added to the dredger flotilla in the near future the Bombay Port Trust contended that such training will be facilitated if the surplus staff of 'Zeebin' is merged with the steam engine crew of the dredging flotilla. The staff could then take their turn in the training scheme along with those of the present personnel of the dredging flotilla. These suggestions appear to me to be feasible and in the interests of the retrenched staff. But I cannot give any directions with regard to the retrenched staff as their cases are not covered by the demand under reference.

In the overall result, the demand as framed by the union is rejected for the reasons stated above.

*Demand No. 21:*

"The scale of pay of Umar Sheikh Adam, Greaser, Dredger 'Vikas' should be revised and he should be given a starting scale of pay of Rs. 56."

At the hearing it was clarified by Shri Maitra that the demand was not for a starting salary of Rs. 56 but of Rs. 66. This demand concerns one individual workman, Sheikh Adam, whose service history as referred to in detail at the hearing, is that he joined the service of the Port Trust on 5th July 1949 and was confirmed as a coal trimmer on 28th July 1951. He was later confirmed as a stoker second grade on 1st July 1958. The scale of pay for stoker second grade is Rs. 40—1—45. It is admitted that he worked as a tindal of stoker with effect from 10th September 1957 and thereafter he worked off and on as fireman serang in the scale of pay of Rs. 70—3—85. It is admitted that he had officiated continuously as fireman serang for a period of two months and 27 days only and as fireman tindal for a period of 2 years, 3 months and 12 days. Prior to his transfer for training on the 'Vikas' as a greaser his substantive post was that of stoker second grade and according to the Port Trust he was under the Trustees Resolution No. 163 of 1960, entitled during the period of his training to draw only his substantive pay as stoker second grade and not the officiating pay as fireman serang or fireman tindal. The Port Trust has annexed to its written statement a copy of Resolution No. 163 of 1960 (exhibit W) under which an employee employed in any of the steam powered vessels when transferred for training to a diesel vessel should draw either—

(1) the substantive pay and increment which he would have drawn had he continued in the permanent post on which he held a lien

or

(2) if he has officiated in some higher post for three years before the transfer he should receive the officiating pay and increments which he would have drawn in the higher post, whichever is more.

Now, it is clear that when Umar Sheikh Adam was sent for training as a greaser on the dredger 'Vikas' he had not held an officiating higher post for three years before transfer. He was, therefore, entitled during the training period, to his substantive pay as stoker 2nd grade, which is Rs. 40—1—45. It was, however, pointed out by Shri Nariman that during his training period on the Vikas he was paid in the scale of Rs. 50—2—60 applicable to greasers. He got only Rs. 50 because under the conditions prescribed by Resolution No. 163 of 1960 his increment was frozen. From the excerpt of the proceedings of the meeting of the Trustees of the Port of Bombay held on 23rd February 1960 when Resolution No. 163 was adopted, it appears that the Chief Engineer in his memorandum had suggested that the dieselisation scheme approved by T.R. No. 1034 of 1959 when being applied to the training section of his department should be so applied as to enable the trainees to draw their officiating salaries as on the date of the commencement of the training. The Chief Engineer had stated that this protection would extend for the period of the training or for the period for which the temporary post in which the trainee was officiating is continued whichever is less. However, this suggestion did

period of three years before officiating pay is protected at the frozen figure was prescribed. As Umar Sheikh Adam has not put in three years officiating service he could only be given during the training period the pay of his substantive post i.e. that of stoker second grade. As Umar Sheikh Adam had gone out for training as a greaser he was paid the minimum salary of greaser viz., Rs. 50. In fact, Shri Nariman has pointed out that even this was a mistake in his favour as strictly under the rules his salary should have been frozen at the salary of his substantive post i.e. the post of 2nd grade stoker, for which the salary scale is Rs. 40—1—45. The demand before me is not for any alteration in the terms on which the crew undergoing training under the dieselisation scheme are entitled to be paid. This demand is virtually linked with demand No. 12 as the union's case is that since Umar Sheikh Adam had been working for more than two years on a higher grade and as normally an employee of the Port Trust accrues the right of permanency after completion of continuous one year's service, he was entitled to the scale of pay which he was carrying as serang of tindal or fireman when he was posted as greaser on the new dredger Vikas. But as I have not accepted demand No. 12 this contention of the union cannot be upheld. In the result, the demand is rejected.

*Demand No. 22:*

"Post of seacunny should be created on 'Kamini' and 'Shalini'."

'Kamini' and 'Shalini' are passenger launches of the Bombay Port Trust and according to the union five lascars are employed on each of these launches out of whom the lascar first class is required to work as a helmsman i.e. seacunny, without getting proper remuneration or designation for the higher responsibility of seacunny carried out by him. The union has argued that the launches M.T. 'Anik' and 'Gull' have four and three deck hands respectively and on each of the launches in each shift a seacunny is posted. According to the union these launches are also meant for carrying passengers and are smaller in dimension to the launches 'Kamini' and 'Shalini'. The union has urged that if the two posts of seacunnies are created on these two launches, it will provide opportunities for the senior lascars to secure service of working qualification to appear for higher competency certificate.

The Bombay Port Trust in its written statement has denied the union's allegations that the launches M.T. 'Anik' and 'Gull' are passenger launches and that they do any towage. According to the Bombay Port Trust the 'Anik' and 'Gull' are largely used for towing for which the serang has occasionally to leave the bridge to supervise the towing thus requiring the service of a seacunny to man the helm. The Port Trust has pointed out that the 'Anik' is regularly used to tow coal barges and the 'Gull' is frequently used for towing vessels to and from the slipways etc. The latter also surveys the maring survey boats during survey operations. The Port Trust has denied that seacunnies are appointed in launches which are not required to do any towing on consideration of dimensions of the vessels and the steering requirements. It appears to me that there is considerable substance in the contention of the Bombay Port Trust. I am inclined to accept the B.P.T.'s contention that operational requirements of the passenger launches do not call for the post of a seacunny in addition to that of serang. Nor am I impressed by the union's contention that if posts of seacunnies are created it would provide opportunities to senior lascars for acquiring qualifying certificates to render them eligible to appear for higher competency certificates. I am not impressed that such an argument can support the claim for creation of more posts. The union has also led no evidence nor has it advanced any cogent arguments to justify this demand.

Accompanied by the representatives of the parties I inspected the two launches which, incidentally, are only used for carrying passengers to Butcher Island. It was admitted that it takes only 45 minutes for these launches to reach Butcher Island. The main argument appears to be that because on the tugs there is a master and also a seacunny, there should also be a seacunny on these two launches. But it must be remembered that this is because two operations are performed on a tug viz., that of towing and of steering. These two launches do no towing operation and the serang attends to the steering. The union has referred to the award of Shri A. Das Gupta in Reference No. 5 of 1937 where lascars of jolly boats were given the posts of tindals of lascars, but as pointed out by Shri Nariman that award has no relevancy because the



it one of his duties to do so and that if occasionally the lascar does the work of steering he does so to qualify for that post. It appears to me that there is substance in Shri Nariman's suggestion that the demand really is for creation of more posts for training for higher certificated posts.

On an anxious consideration of the submissions of the parties I am not satisfied that the demand is justified and I therefore reject the same.

*Demand No. 23:*

"As in the Port Department in the Chief Engineer's Flotilla also extra post of seacunny should be created and permanent seacunnies who are unable to secure higher competency certificate should be designated as tindal of lascar in the same manner as in the Deputy Conservator's Department."

On this demand the parties agreed before me as follows:—

"The four seacunnies who by reason of not having acquired the certificates are blocking their juniors be designated as tindals whilst retaining their existing scales of pay and four of the juniormost workmen of the workshop flotilla of the Chief Engineer who are willing to appear for the test, be promoted as seacunnies. The four seacunnies who will be re-designated as tindals will perform the duties of the posts of the workmen who are promoted as seacunnies."

and I award accordingly.

*Demand No. 24:*

"The grievances of the workshop flotilla crews represented by this union under its letter No. GWU 33/60-61, dated 24th May 1960 be redressed."

It appears that five demands were placed for consideration of the Administration by the union's letter, dated 24th May 1960.

At the hearing on 3rd July 1961, demand No. (a) was not pressed by Shri Motra, General Secretary of the B.P.T. General Workers' Union. The same is therefore dismissed as not pressed.

*Demand Nos. (b) and (c)—*

These two demands relate to a similar subject and may therefore be dealt with together. Demand No. 24(b) is that there should be two posts of jolly boat tindals for the 'Kamini' which works in two shifts and that the management was wrong in sanctioning only one post of jolly boat tindal for this vessel. The union's contention in support of this demand, is that the 'Kamini' is working in two shifts and that therefore it was necessary that in both shifts there should be one tindal to take charge of the jolly boat. The Bombay Port Trust in its written statement has admitted that the Kamini works in two shifts but it has pointed out that the jolly boat of the Kamini is used only at the time of changing of crew on the off days or when the Kamini is laid up. Since the Kamini works in two shifts of 12 hours each day, the daily change of crew at the end of the shift takes place at the harbour wall in Prince's Dock and no jolly boat is required for transporting the crew; that the jolly boat on the Kamini is used only on the weekly off days when the launch is laid up to the mooring buoy of the workshops basin, and on that occasion the serang who is senior to the jolly boat tindal, is available to take charge of the boat.

It will thus be seen that while the Kamini does work in two shifts its jolly boat works only on weekly off days to transport the crew or only when the Kamini is laid up and on those occasions the Sarang who is senior in rank to the tindal of the Jolly Boat, takes charge. In these special circumstances, I am not satisfied that there is justification for the sanction of two posts of tindals of jolly boats on the launch 'Kamini' and that the sanctioned one post of tindal is adequate.

Demand No. 24(c) relates to the appointment of a tindal on the jolly boat attached to the "M.T. Anik". The union's case is that the tindal of the jolly boat attached to the M.T. Anik has been transferred to the barges and the post on the 'Anik' has not yet been filled in. The Bombay Port Trust has in

its written statement denied this and has stated that the vacancy of the tindal on the jolly boat of "M.T. Anik" has been filled in by promotion of the next senior deckhand. The union at the hearing did not deny this statement. Therefore there has been a compliance of the first part of this demand.

The next demand of the union in respect of the "M.T. Anik", is that there should be two posts of tindals sanctioned for its jolly boat for each of the shifts as for the Kamini. The Bombay Port Trust in its written statement has stated that what it has observed about the Kamini also applies to the M.T. Anik, and for the reasons stated in the case of the Kamini, I reject this demand.

I may say that my award on demand Nos. 24(b) and (c) covers the second part of the union's demand No. 26.

With regard to demand under item (d), it is covered by demand No. 13 in this reference and therefore my award on that demand shall cover the same.

Item (e) of the union's letter, dated 24th May 1960 is as follows:—

"The demand is that there should either be uniform 12 hours working for all the workshop launches and barges attached to the Mechanical Superintendent, Bombay Port Trust or in the alternative there should be uniform 8 hours working and fixed overtime working system for the workshop flotilla should be totally abolished."

The union's case as stated in its written statement in support of this demand is that at present some of the units (launches) attached to the workshop flotilla and barges are worked in two shifts of 13 hours each and some are worked only in one shift of 8 hours. As there is common seniority between the two sections of the launches and the barges attached to the workshop flotilla, when there is overtime work on some launches it affords a scope for malpractices for making four hours overtime earnings available to selected favourites. The union has also alleged that the existing practice leads to a feeling amongst the workmen that some of the launches are deliberately favoured with overtime work with a view to adversely affecting the solidarity of the workmen.

The Bombay Port Trust in its written statement has given the details of the shift hours of the various units of the workshop flotilla and it has pointed out that these working hours have been fixed having regard to the respective purposes for which they are employed. It has pointed out that the Motor Launches 'Kamini', 'Shalini' and 'Mohini' are worked in 12 hour shifts mainly because they are used for transport of workmen to Butcher Island, where work is carried out in shifts of 12 hours and it is found convenient from the operational point of view to have the same hours of shifts on these vessels as those applicable to the workmen at Butcher Island. It was also explained that certain barges are also worked in two shifts of 12 hours because they are attached to the floating crane 'Sarus' which also works in 12 hours shifts. It is explained that for vessels working 8 hours shifts it is not necessary to have 12 hours shifts as 8 hours shifts are found adequate and satisfactory having regard to the duties assigned to those vessels.

With regard to the union's allegation of malpractices, it is pointed out that postings to units are made on the basis of seniority, the senior persons being generally allotted to vessels working on 12 hours shifts.

I am satisfied that the different working hours of the several units of the workshop flotilla are based on the different nature of their work requirements, and as the union has not, beyond making vague suggestions of favouritism, corruption and nepotism, advanced any cogent arguments in support of its demand, the demand is rejected.

Demand No. 25:

"The special allowance of Rs. 15 be sanctioned to the driver of 'Priestman'."

I may state that the 'Priestman' is a grab dredger and I had the benefit of inspection of this vessel along with the representatives of the parties. It is admitted that the driver concerned, Shaikh Hasan Shaikh Husein, is a third

grade driver. The union's case is that the nature of work of the G. D. Priestman requires the appointment of a driver second grade, but that for reasons best known to it the Port Trust has appointed a third grade driver. According to the union in other departments of the Port Trust including the dredging flotilla of the Deputy Conservator's Department, the junior driver holding a second class driver's certificate is granted a qualifying allowance of Rs. 16 per month for holding a first-class driver's certificate and the second grade driver of G. D. 'Mayur' is paid a special allowance of Rs. 15 for similar duties and responsibilities as that of G. D. 'Priestman'. It is, therefore, the union's contention that the appointment of a third grade driver on "G. D. Priestman" is unjustified and that he should be designated as driver second grade and should be paid a special allowance of Rs. 15 for operating the cranes, looking after the engines, maintenance and being in charge of the machinery as a whole, which, according to the Union, are the duties which he has to perform.

The Port Trust in its written statement has stated that the engine driver third grade of G. D. Priestman carries out duties similar to those of the cranesmen on H. G. D. Chellura whose grade is Rs. 80—4—100 except that he has got to be in charge of a small boiler also, and in consequence is required to have a boiler attendant's certificate; that to compensate him for this additional responsibility and qualification he is given the higher grade pay of Rs. 90—5—120. The Port Trust has pointed out that the third grade driver on the 'Priestman' is assisted by a clutchman to look after the crane and a coal trimmer for looking after the boiler. The Port Trust had admitted, as stated in the union's statement of claim, that a junior driver holding a first-class driver's certificate is granted a qualifying allowance of Rs. 16 per month, but it is pointed out that in the case of the driver of the 'Priestman' only the boiler attendant's certificate is called for, and as there is no other post calling for higher certificate in this channel of promotion, no provision has been made for a qualification allowance for that post. It is pointed out that the channel of promotion for drivers grade three of the 'Priestmen', is the post of driver on the 'Flamingo', for which also only a boiler attendant's certificate is required. With regard to the special allowance of Rs. 15 paid to the second grade driver of the G. D. Mayur, the Port Trust has stated that the 'Mayur' is fitted with two cranes directly operated by diesel engines and that the drivers have to attend to operation of cranes as well as maintenance of mechanical parts. Besides, on the 'Mayur' there is a diesel generator set on board, and the senior driver of 'Mayur' is paid Rs. 15 per month as charge allowance. The Port Trust had argued that the Mayur's diesel cranes are of recent design needing careful upkeep and the working of "Priestman" which has only a single crane bears no comparison with that of the 'Mayur'. It is further pointed out that the special allowance of Rs. 15 per month given to the senior of the two drivers on the 'Mayur' is based not only on the consideration of the intricate nature of the machinery but also from the administrative consideration that amongst two drivers of similar status a senior one should be given a slightly higher remuneration so that he could hold the charge of both the cranes and be responsible for their proper operation and maintenance.

On the submissions made above and after seeing the working of the "G. D. Priestman" and the 'Chellura' I am inclined to hold that the Bombay Port Trust's opposition to the grant of a special allowance to the third grade driver of the 'G. D. Priestman' is justified. In my opinion, the union has failed to make out a case to justify this demand. I am not satisfied that the duties of the third grade driver of the 'Priestman' can be compared with those of the junior driver holding first class driver's certificate, who is granted a qualifying allowance of Rs. 16 per month or of the second grade driver of G. D. 'Mayur'.

The union has in the alternative made a claim that a direction should be given by the Tribunal to the effect that the driver should not be called upon to operate the cranes or attend to maintenance of various machineries over and above his normal duties which according to the union is that of attending to the boiler of the engine. The Port Trust in its written statement has stated that the engine driver's duties include the operation and maintenance of the cranes and that the demand of the union for the direction which it has asked for is not justified, apart from it being outside the scope of the demands referred to this Tribunal. I think this latter contention of the Port Trust is correct. The demand is for the grant of a special allowance of Rs. 15 to the driver of the 'Priestman' and it would not be competent for me to give directions limiting the work of the engine driver third grade.

The result is that the demand is rejected.

*Demand No. 26:*

"All workshop launches which are not provided with jolly boats should be provided with jolly boats and be given jolly boat tindals. Jolly boats which are not provided with jolly boat tindals in the second shift should be provided with jolly boat tindals."

At the outset I may state that the second part of this demand for provision of jolly boat tindals in the second shift is covered by my award on demands Nos. 24(b) and (c) *supra*.

The demand that remains to be considered is whether all workshop launches which are not provided with jolly boats should be provided with jolly boats and be given jolly boat tindals. This demand arises out of the award of Shri A. Das Gupta, Central Government Industrial Tribunal on demand No. 1 in Reference No. 5 of 1957, referred to earlier in this award. The issue in demand No. 1 before Shri Das Gupta was whether there should be a tindal in charge of each of the jolly boats used by the Port Trust, flotilla as against merely a senior lascar on a special pay of Rs. 5 per month, in addition to his grade pay. On that demand, Shri Das Gupta, by paragraph 15 of his award, directed that jolly boats under the Deputy Conservator and Chief Engineer which were in the charge of lascars and deck hands with a special allowance of Rs. 5, shall be placed in charge of jolly boat tindals who shall be recruited from among the shore lascars and deck hands respectively under the Deputy Conservator and Chief Engineer according to seniority and suitability and shall be placed in the grade of Rs. 45—1—55. It appears that after this award was made on 23rd May 1958, this union by its letter of August 1959 complained to the Chief Engineer, Bombay Port Trust that in the workshop flotilla launches "Kamini", "Anik" and "Swift", jolly boat tindals had been sanctioned only on one shift, and no jolly boat tindals had been sanctioned on the 'Tarangini', 'Gull' and 'Mohini'. It appears that some of these launches of the workshop do not have jolly boats but smaller boats than jolly boats which are known as tonies. By its letter, dated 11th September 1959 the Port Trust informed the union that tindals had been appointed on jolly boats as directed by the Das Gupta Award but not on the tonies. It was further pointed out that neither a jolly boat nor a tony is attached to the 'Shalini'. A reference to this correspondence is contained in paragraph 1 of the union's statement under this demand.

It appears that no jolly boat tindals had been appointed on the tonies of the "Tarangini", "Gull", "Mohini" and "Shalini". The union's case is that even these small boats attached to the launches "Tarangini", "Gull" and "Mohini" can be classified as jolly boats and are not small tonies. It has pointed out that the "Tarangini" has a complement of 6 men, Gull of 7 men and Mohini of 8 men. The union has argued that these small boats are really not tonies which can carry only one or two passengers, and should be treated as jolly boats. In this connection the union has relied upon the definition of jolly boats contained in the dictionary of 'Sea Terms' compiled by Mr. A. Austed and published by Messrs. Brown Son and Anderson Ltd., Nautical Publishers, 57-58, Downly Street, London. The union in its written statement has stated that the jolly boats as defined therein would cover these small boats attached to the said launches, which according to the Bombay Port Trust are used for general purposes. A dinghy has been defined to indicate a small boat usually attached to a yacht and useful for all general purposes. As this was a matter of a technical nature the union had suggested that it be referred to the Mercantile Department of the Government of India for their opinion. But the Bombay Port Trust by their letter, dated 16th May 1959 refused to refer the matter to the Mercantile Marine Department as requested, and claimed that the small boats attached to the 'Tarangini', 'Gull' and 'Mohini' are tonies in the proper sense and are required to carry not more than one or two persons.

I have heard the submissions of the parties and I have also referred to the relevant portions of Shri Das Gupta's award in Reference No. 5 of 1957, and it appears to me that the test for the appointment of a tindal for the jolly boats was that these jolly boats were used for transporting the crew. It is not denied that these tonies are also used for transporting the crew. The Bombay Port Trust in its written statement on this demand has stated that the tonies attached to the 'Tarangini', 'Gull' and 'Mohini' are adequate for transporting the crew and there is no need to replace them with jolly boats. At the hearing Shri Maitra has not pressed the demand for replacement of the tonies with jolly

boats, but his argument is that as admitted by the Bombay Port Trust in its written statement even these tonies are used for transporting the crew. The Bombay Port Trust has argued that even if these tonies are treated as jolly boats there is no need to provide tindals as they are used for transfer of the crew between the shore and the mooring buoys over a distance of about a furlong and that during such trips a person senior to a jolly boat tindal viz., serang or seacunny will normally be transferred to take charge. But the Das Gupta award admittedly applies not only to the flotilla of the Deputy Conservator but also to the flotilla of the Chief Engineer and Shri Das Gupta in paragraph 12 of his award noticed that the jolly boats under the Chief Engineer are employed only for the purpose of transferring the crew of the floating crane and launch and have to ply for a short distance and yet in such jolly boats he has granted the demand for the appointment of a tindal and tindals have been appointed for jolly boats of the Chief Engineer's flotilla.

In my opinion, the provision of a tindal even on the small boats (tonies) of the "Tarangini", "Mohini" and "Gull" would be justified, provided that these small boats have a capacity of carrying at least six persons. With regard to the "Shalini" as it is admitted that she has neither a jolly boat nor a tony, this demand for a tindal does not arise. The tindals as directed shall be appointed within a month of the date this award becomes enforceable.

**Demand No. 27:**

"The order of suspension issued on Shri Raja Miya Khan Miya Syranx of stoker, S. P. V. Kennery, be cancelled forthwith and he should be allowed to resume his duties on S. P. V. Kennery."

At the hearing the union did not press this demand as it is admitted that the order of suspension in question has been withdrawn, and the demand is therefore disposed of as satisfied.

**Demand No. 28:**

"The Engineer of S. P. V. Kennery, Shri J. O. Prabhakaran, and Stoker Munus Sadruddin be transferred forthwith to some other vessel as they have instrumental in disturbing the peaceful working of the engine room crew of the vessel. Moreover Shri Yunus Sadruddin, Tindal of stoker have got no qualification certificate and being placed on watch duty endangers the life of the other members of the crew."

At the hearing, the Union did not press this demand which is dismissed accordingly.

**Demand No. 29:**

"It has been found by experience that most of the irregularities at present occurring in the Deputy Conservator's Department, are due to the activities of the two establishment clerks and there is valid reason to feel that corrupt practices in the department flourishes due to the inability of the establishment clerks to check such activities. For the peaceful working of the department, these two clerks should be transferred and be replaced by some efficient men."

At the hearing the Union did not press this demand which is dismissed accordingly.

**Demand No. 30:**

"The assurance given by the Chairman Bombay Port Trust under his letter No. P/GEE-G(U)/5743 dated 29th October, 1959 in connection with demand No. 8 be implemented forthwith and the Water Supply Lascars be paid their arrears of overtime wages on the said account without any further delay."

This demand concerns the question of arranging shifts for the water supply lascars so as to avoid two weekly days of rest in a week. After the parties had made their submissions before me on this demand, I suggested to them the desirability of so rearranging the men to make a staggered weekly day of rest possible for as large a number of water lascars as possible. I am glad to record that thereafter the union by its letter dated 19th August 1961 intimated to me that after detailed discussions on the proposals submitted by the union, the following proposals had been accepted by the authorities and they had expressed their willingness to adopt and make the necessary changes on the request of the union. The proposals submitted by the union are as follows:—

- (a) That the existing groups 'A', 'B', 'C' and 'D' should be re-shuffled into three groups only consisting of 50 men in each group.

- (b) That on each day 21 men in all from the three groups or 7 men from each of the group can be granted weekly day of rest.
- (c) The men will work in rotation in the three shifts i.e., 1st shift 24/30 07-00 hours; 2nd shift 08-00 to 17-00 hours and the 3rd shift from 17-30 to 24-00 hours. Men from the 1st shift will work after one week in the 3rd shift and men from the 2nd shift will work after one week in the 1st shift and men from the 3rd shift will work in the 2nd shift after a week. This system of rotation can continue without upsetting the existing efficiency of working.
- (d) The weekly day of rest of all employees once fixed should continue to be the same for a minimum period of three months."

A copy of the Union's letter to me dated 19th August 1961 was sent to the Secretary of the Bombay Port Trust for his remarks thereon and to confirm whether a settlement as stated by the union in its said letter had been reached. The Deputy Secretary of the Bombay Port Trust by his letter dated 7th September 1961 conveyed the acceptance of the Port Trust Administration to the proposals of the union. Para. 2 of that letter which records the acceptance is as follows:—

"The proposals now put forward by the union are acceptable to this Administration except that the regrouping of the men in three groups as proposed by the Union will result in a shortage of men during the day shift in the event of heavy absenteeism amongst them and some of the men will have to work successively in two night shifts. This fact was brought to the notice of Shri Kale in discussion and he had verbally agreed that if ever such a shortage occurred one man would be required to attend to more than one meter."

I annex to this award copies of letter No. GWU.33/61-62 dated 19th August 1961 from the union and Bombay Port Trust's letter No. PU/GEE-G(U)/1411 dated 7th September 1961, both addressed to me, and I make an award on this demand in terms of the settlement recorded in these two letters (marked as Annexure Nos. 1 and 2 respectively), and these letters shall form part of my award on this demand.

There is, however, one claim under this demand which remains to be dealt with.

The union, in its written statement, has claimed that water supply lascars be paid their arrears of overtime wages as demanded by it in its letter dated 27th October 1959. Demand No. 8 in that letter was as follows:—

Fixation of weekly days of rest for a period of three months in advance for such employees whose weekly days of rest are staggered with retrospective effect from 1st January 1958 and payment of arrears of overtime wages to such employees with similar retrospective effect for their working on their weekly days of rest be given."

It appears that the demand was settled upon the Chairman, Bombay Port Trust, having given the following assurance to the workmen as contained in the Bombay Port Trust's Secretary's letter dated 29th October 1959 viz.,—

"Every effort will be made to see that the provisions of the relevant award would be complied with and the alleged practice of giving an off day in anticipation or of fixing weekly off within three days of each other will be stopped."

The Award of the Central Government Industrial Tribunal at Calcutta in Reference No. 5 of 1958, directed that attempts should be made to adjust the weekly rest days in such a way that no worker loses any weekly day of rest, and the Tribunal also gave directions in the event of the weekly day of rest being a public holiday. The Bombay Port Trust has stated that it is observing the directions of this and the other Awards, referred to below.

The union's case is that the Labour Appellate Tribunal's decision in Appeals (Bombay) Nos. 255 and 256 of 1954 (arising out of Award in Reference ITCG-No. 3 of 1954—Shri M. R. Meher's Award) applied to the Chief Engineer's Department. Under its decision the Labour Appellate Tribunal had directed that, "if the day on which the work is done happens to be the workman's day of rest, he shall get an alternative day of rest and payment shall be made at 1½ times of the normal daily wage." Under this decision it was held that after the system of staggering of the weekly day of rest having been recognised under the Minimum Wages Act, Sunday loses its special significance and that payment for work done

on a Sunday would be made as for work done on the other days of the week. Shri Nariman's contention is that the amended Minimum Wages Act, provides for the declared weekly day of rest being substituted, but for such substitution notice to the workmen of the substituted day of rest is necessary and is being given as stated below. Shri Deshmukh has, however, complained that the Bombay Port Trust had agreed to put up a statement showing three months weekly days of rest in advance, but it had failed to comply with it. Shri Nariman has pointed out that as the water supply lascars have staggered weekly days of rest, Sunday is not their fixed weekly day of rest, but Shri Maitra has argued that whenever the water supply lascars were not told that they would get their weekly day of rest on day other than a Sunday, should be deemed to have been their weekly day of rest and they were entitled to be paid extra wages for working on Sundays. In my opinion, Shri Maitra's argument has no force as the weekly days of rest of the water supply lascars are staggered and it is admitted that their days of rest are notified to them every week by a notice put up on the notice board on each Wednesday.

This demand covers about 150 water lascars and the demand, as it is worded, would appear to be for overtime payment. But in fact, as conceded by all parties to the dispute, the demand is for compensation at the rate of  $1\frac{1}{2}$  days' wages i.e., half day's extra wages, to the water supply lascars, for being made to work on their scheduled weekly day of rest. This dispute has arisen, because water supply lascars are given their staggered weekly days of rest not at regular interval of seven days in all the weeks in the month, but in some weeks the weekly day of rest is given within three days of the earlier day of rest. The Union has complained that this results in inconvenience to the workmen as they do not get their weekly days of rest at a regular interval of a week. This trouble has arisen out of the Administration's difficulty of grouping the water supply lascars in 3 shifts in the required number. It is not disputed that the grant of staggered weekly days of rest in the manner it is done by the Administration is permitted under the Minimum Wages Act, provided that a weekly day of rest falls at least once in every 10 days, which provision is admittedly also observed. It is admitted that the Labour Appellate Tribunal's decision in Appeals Nos. 255 and 256 of 1954 above referred to, provides for payment at  $1\frac{1}{2}$  times the basic wage only, for work on the workmen's day of rest. It does not state that it should be given on the workmen's normal weekly day of rest, as under the Minimum Wages Act the weekly day of rest can be staggered. It is admitted that the Bombay Port Trust by notice put up on each Wednesday, notified in advance which will be the weekly day of rest for each water supply lascar during the ensuing week. In these circumstances, as it applies to me that in the matter of the weekly days of rest for the water supply lascars, the Port Trust is acting in accordance with the provisions of the Minimum Wages Act and the subsisting Award of Tribunals applicable in this matter. I am of the opinion that a water supply lascar would be entitled to extra payment of half day's wages under the terms of the Awards in force, only if he was made to work on his notified weekly day of rest, and would in addition be entitled to another alternative day of rest. My direction, therefore, will be that only those water lascars who have been made to work on their notified weekly day of rest, shall be entitled to be paid additional half day's wages for having been made to work on those days and this payment should be made from 1st January 1960. I have fixed this date considering that the assurance given by the Port Trust is contained in its letter of 29th October 1959. I further direct that the dues under this direction shall be paid to the water supply lascars concerned within a month of this Award becoming enforceable.

#### *Demand No. 31:*

"Additional post of Clutchman to assist the cranesman on Dredger 'Vikas' who have been removed should be re-posted. If such posts are not sanctioned, post of clutchmen on 'Vikas' should be sanctioned."

The dredger 'Vikas' is a new diesel vessel which has four electrically operated cranes. The first part of the union's demand viz., to repost the clutchmen who have been removed, suggests that there were four clutchmen sanctioned to assist the cranesmen on the 'Vikas'. But the Bombay Port Trust, in its written statement, has pointed out that this is erroneous, inasmuch as it was only when another dredger viz., the 'Chellura', was laid up for annual overhaul that the clutchmen of that vessel were temporarily deputed on the 'Vikas' for being trained in the operation of the electric cranes so that they could work in leave vacancies as cranesmen on the 'Vikas'. When the 'Chellura' was re-commissioned after overhaul these clutchmen who had been posted on the 'Vikas' temporarily for training, were withdrawn from the 'Vikas' for service on the 'Chellura'. Shri Maitra

then suggested that four persons were appointed from the workshop to assist the crane drivers on the 'Vikas'. But the Port Trust has denied this and pointed out that only two litters were sent to the 'Vikas' and that too only on Saturdays and Mondays to do some greasing work. It, therefore, appears that the first part of the demand has been made under a misconception of the correct facts.

At the hearing before me, the union stated that the cranesmen on the four electrically operated cranes of the 'Vikas' require the assistance of clutchmen. In support, Shri Maitra pointed out that the cranes are of a new type having scores of lubricating points etc., and the construction being of a closed type the cranesmen always have to remain in their seats during the period of the operation. He further urged that prior to starting the operations about 80 points require lubrication and that the wire ropes attached to the grab bucket also require to be cleaned and lubricated regularly. It was further urged that on other dredging vessels the cranesmen are assisted by the clutchmen. The union's complaint is that after the 'Vikas' was acquired, the Administration, considering that the condition of working on it was different from the condition of working on other dredgers, reduced the number of posts of employees required for the operation of the cranes and did not sanction the posts of four clutchmen to assist the cranesmen as is the normal practice; that later when the Administration found that the cranesmen could not work the cranes without the assistance of the clutchmen, it detailed four workmen from the B.P.T. Workshops to assist the crane drivers, but, this, as I have stated earlier, has been denied by the Bombay Port Trust and the union has not led any evidence in proof thereof. The union further complains that after some time these four workmen from the B.P.T. Workshops were removed and the Mechanical Superintendent made the greasers working in the engine room of the 'Vikas' assist the cranesmen in addition to their own duties. The engine room crew appear to have objected to this on the ground that the work of operation of the cranes is outside the scope of their duties and responsibilities.

During the discussions between the Union's representatives and Chairman on this demand, after the Government order of reference was made, the Chairman informed the union that he had sanctioned additional posts of cleaner and greaser for the dredger 'Vikas'. The union has stated that it was under the impression that the two posts sanctioned were intended only to assist the crane drivers but later it was found that they were greasers and cleaners who had been appointed on a pool basis in the engine room and that they would have to work as assistants to the crane drivers. The union, therefore, objected to those appointments because the engine room staff are separate from the deck staff to which the cranesmen belong and any pooling of the strength of the engine room staff with the deck staff would adversely affect the chances of the engine room staff. It was, however, stated before me at the hearing that since November 1960 the posts of one greaser and one clutchman had been converted into those of two clutchmen. The Port Trust in its written statement has pointed out that considering that the cranes on the 'Vikas' are electrically operated, only two additional hands to assist the cranesman would, in the opinion of the employers, be sufficient and therefore the one additional post of one greaser and one cleaner was sanctioned to assist the cranesmen and as I have stated earlier these posts were converted into two posts of clutchmen in November 1960.

I may state that at the request of the union accompanied by the representatives of the parties I inspected the operation of the electrically operated cranes in the 'Vikas', which is one of the biggest dredgers operating in Asia. There is no doubt that the clutchman assists the cranesman and it was admitted that the clutchmen operate the cranes when the crane drivers are away and they also act in their leave vacancies. It is admitted that the grab operations on the 'Vikas' last for about 5 to 6 hours each day and that the 'Vikas' makes only one trip to dump the silt because of the difficulties of berthing it. It was, however, ascertained that the crew of the 'Vikas' work in shifts of 12 hours and that during the time the crane is operated the clutchmen do not do any greasing work.

I am not satisfied that a case has been made out for the appointment of four clutchmen to assist the crane drivers. The 'Vikas', as I have stated earlier, is an up-to-date modern dredger and the cranes are electrically operated and evidently there is scope for some rationalisation in the number of workmen employed on its four electrically operated cranes. The administration at first thought that they could carry on the work without the clutchmen, but evidently they found it necessary to appoint two assistants and they, therefore, appointed a greaser and a cleaner. Objection was raised to those appointments on the ground that they belonged to the engine room crew and because of the difficulties in the pooled seniority which arose out of the engine room crew having to work on the deck side. Those appointments were thereafter converted into those of clutchmen who are



assisting the four cranesmen. I am not satisfied that a case has been made out by the union to justify my interfering with the management's inherent right to fix the number of workmen necessary for a particular operation. The Administration feels that two clutchmen are enough to assist the four cranesmen and I would hesitate to interfere with that discretion in the absence of the union having made out a case that the action of the management was unreasonable or perverse, in which case only a Tribunal would be justified in interfering with this managerial function.

*Demand No. 8:*

"S. P. V. 'KENNERY' belongs to the Deputy Conservator's flotilla and as such the crew of the pilot vessel should be given similar working and service conditions as the flotilla crews i.e. work in shifts of 12 hours with 8 hours normal wages and 4 hours' overtime wages. If for the grant of this system, it is considered necessary to withdraw the system of free supply of rations the employees would have no objection."

This demand relates to the crew of the pilot vessel "Kennery". Under the provisions of the Indian Ports Act, vessels entering into, leaving or moving in the Port are required to have a pilot on board and under the provisions of the Bombay Port Trusts Act, the right and privilege of maintaining pilots for the navigation of vessels at the port has been vested in the Bombay Port Trust. The "P. V. Kennery" is stationed at the approaches to the harbour and when an incoming vessel approaches the harbour it goes out to meet and is then anchored a short distance away from such vessel. The jolly boat on the pilot vessel is then lowered and a pilot is rowed by seven lascars to the vessel to enable him to board it. In the case of a vessel leaving the Port, the pilot, who goes on board the same at the dock where the vessel is berthed, gets off the vessel at the approaches to the harbour and he is rowed from such vessel to the pilot vessel in the jolly boat. The pilot vessel patrols certain approaches to the Port, assists any countrycraft in distress and maintains the shipping clear of fishing boats and fishing gear. The pilot vessel is in wireless communication with vessels within 500 miles of the Port and receives and sends important messages between such vessels and the Port. The Bombay Port Trust claims that the pilot vessel has a system of working which is peculiar to itself and different from the conditions and system of working of other vessels of the Port Trust flotilla.

From the beginning there have been no specified hours of work for the crew of the pilot vessel Kennery as there are for the crew of the Deputy Conservator's flotilla. But the crew are considered as having worked each day of duty a shift of 12 hours. By the Trustee's Resolution No. 356 dated 19th April 1953, the 12 hours working was calculated as being 8 hours actual work, two hours overtime work and two hours recess. This evidently remained in force till July 1957 when by Resolution No. 724 of 2nd July 1957, the crew of the pilot vessel were considered to have worked on each day of duty, a shift of 12 hours consisting of 8 hours duty and one hour's recess and three hours overtime, instead of 8 hours duty, 2 hours recess and 2 hours overtime as sanctioned by the earlier Resolution. It is necessary to state that the crew of the pilot vessel are granted free rations on the scale admissible under the Home Trade Articles, and that this additional benefit was continued to them under Resolution No. 724 of 1957 which when submitted for necessary approval to Government, was objected to by the Union which claimed 4 hours overtime with free rations for the deck crew of the pilot vessel or in the alternative that they should be put in two shifts of 12 hours each and should be paid three hours overtime with free rations. Ultimately, as is borne out by the union's letter dated 21st October, 1957 addressed to the Secretary, Ministry of Labour, Government of India, New Delhi, (annexure 'L' to the B.P.T.'s written statement) the managing committee of the union at its meeting held on 19th October, 1957, decided to withdraw its objection and agreed to the Trustees' proposal as embodied in its Resolution No. 724 of 2nd July 1957 granting 3 hours' fixed overtime with free rations to the crews of the pilot vessel. The union claims that thereafter in about June 1958 it had raised the present dispute. But demand No. 11 in the union's letter dated 14th April, 1960 addressed to the Regional Labour Commissioner (C) which related to this subject, was as follows:—

"The crew of the Pilot vessel 'Kennery' be granted 8 hours normal wages plus 4 hours' overtime wages at double the rate of their total emoluments."

Thereafter, the demand as framed under reference was submitted on 23rd June 1960. In the discussions that ensued between the Chairman of the Bombay Port Trust and the representatives of the union after this reference was made by

Government on 26th June 1960, no settlement could be reached and the Bombay Port Trust's letter dated 22nd July 1960 recorded as follows:—

"The Log Book of the pilot vessel 'Kennery' was examined in your presence, as requested by you. The entries in the book showed that the period of active employment of the vessel's crew was too small to justify the grant of even three hours' fixed overtime, which was now allowed to them. Your union was asked to produce the alternative figures relating to the amount of work in justification of the demand for four hours' overtime which you were unable to do. In the circumstances, the award of the Industrial Tribunal before whom the issue is at present pending, will be awaited."

The union's case in support of the present demand is that as this pilot vessel forms part of the Deputy Conservator's flotilla, the conditions and hours of work of the crew of this vessel should be the same as those of the Deputy Conservator's flotilla crew. It is admitted that the crew of the Deputy Conservator's flotilla work in two shifts of 12 hours a day and are paid 8 hours' basic wages plus 4 hours fixed overtime. It is also admitted that they do not get free rations. The demand as framed by the Union is that the working hours of the crew of the S. P. V. Kennery should be changed and brought in conformity with those of the crew of the Deputy Conservator's flotilla, and, if, for adopting this system, it was necessary to withdraw the supply of free rations, the workmen would have no objection.

Shri Maitra at the hearing applied for deletion from the demand of its last sentence relating to the withdrawal of the benefits of free rations but it is hardly necessary to state that it would not be within the powers of the Tribunal to allow such alteration of the demand, as it would result in enhancing the claim. It is now well settled law that a Tribunal must adjudicate upon the demand as referred to it for adjudication. From the language of the demand there can be only one interpretation to be put on the demand and that is that the crew of the S. P. V. Kennery should be given the same working conditions as for the flotilla crew i.e. work in 2 shifts of 12 hours each with 4 hours fixed overtime with withdrawal of the benefit of free rations, if it was necessary to do so to grant the demand.

It is, therefore, necessary to consider whether the demand for two shifts of 12 hours each for the crew of S. P. V. Kennery is feasible and justified.

It is urged on behalf of the Administration that considering the functions of the pilot vessel it will not be feasible to have two shift of 12 hours each a day which would necessitate the pilot vessel having to come to shore once in every twelve hours, instead of once in every 24 hours, as at present. The Port Trust in its written statement has stated that if the crew of the pilot vessel were to be changed for work in two shifts of 12 hours each, the pilot vessel would have to leave her station and move up and down the harbour which would have undesirable consequences. Having regard to this, the pilot vessel has from the beginning a system of working which is peculiar to itself and different from the conditions and system of working of the other vessels of the Port Trust flotilla. The administration has urged that even prior to the implementation of the Minimum Wages Act, the same system of work had obtained in the pilot vessel. Before the Minimum Wages Act became applicable, the Bombay Port Trust had its own rules under which it paid overtime after 8 hours work at the rate of  $1\frac{1}{2}$  times the basic wages alone. It is admitted that for some time the employees received four hours fixed overtime (see sub-para (3) of para (3) of the excerpt from proceedings of the meeting of the Trustees held on 19th April, 1955—Ex. II to B.P.T.'s written statement). It appears that in the middle of 1953 the S. P. V. Kennery was laid up for major repairs. By about April 1955 the repairs were completed but the vessel could not be placed on station because of the difficulties of complying with the provisions of the Minimum Wages Act. It appears that the entire crew of the pilot vessel, except the Master Pilot and Engineers, had been notified under the Minimum Wages Act with the result that they would not be made to work for longer hours than prescribed under that Act, unless exemption was obtained from operation of the Act. It appears that by Resolution No. 179 dated 10th March, 1954, the Trustees decided, *inter alia*, to apply to the Central Government for exemption from the Minimum Wages Act in respect of the crew for the pilot vessel. Besides, at about the same time the Central Government added a new rule to the Minimum Wages (Central) Rules, being rule No. 32 which was as follows:—

Rule 32—"These rules shall not apply in relation to any scheduled employment in so far as there are in force rules applicable to such employment which in the opinion of the Central Government made equally satisfactory provisions for the matters dealt with by these Rules and such opinion shall be final."

It, therefore, became necessary for the Bombay Port Trust, before it could obtain exemption from the operation of the Act to frame satisfactory provisions which would enable it to take advantage of the saving provided by the new Rule 32. Accordingly, by resolution No. 356 dated 19th April, 1955 the Port Trust framed rules relating to the service conditions of the different categories of its employees on the pilot vessel which was sanctioned by the Central Government under the provisions in that behalf contained in the Bombay Port Trust Act. (See exhibit 'H' to the B.P.T.'s written statement). What is important to note is that these rules were framed in consultation with the B.P.T. General Workers' Union which by its letter dated 7th April 1955 approved of the draft proposals for the working of the pilot vessel Kennery. The General Secretary of the Union in that letter stated:—

"As the proposals conform with the suggestions made by the employees under their application dated 8th March 1955, the undersigned is glad to accept the proposals and shall be very much obliged if early action is taken for putting the vessel S. P. V. Kennery into commission."

Under the said resolution dated 19th April 1955, the Trustees applied to the Central Government for exemption from the application of the Minimum Wages Act and enclosed thereto the regulations which it had framed governing the service conditions of the employees working in the pilot vessels. I shall refer to those conditions presently, but I may, in conclusion of the chronological sequence of events upto this stage, state that the Government was pleased to grant the necessary exemption applied for by the Port Trust by its notification No. S.R.O. dated 24th June 1955 exhibit 'J' to the Port Trust's written statement. A copy of the regulations framed by the Port Trust is annexed at page 59 of the Bombay Port Trust's written statement and the salient features thereof were that the pilot vessel would be run as a sea going vessel and the employees will be signed on Home Trade Articles. The important clauses were—

- (1) The pilot vessel will be run as a sea going vessel and the employees will be signed on Home Trade Articles. The Pilot Vessel will be considered to be the place of stay of the employees as well as their place of duty.
- (2) Notwithstanding the provisions of clause (1) above, the employees will be eligible for the Compensatory, Dearness, House Rent and any other allowances sanctioned by the Trustees from time to time at the same rates and on the same conditions as are applicable to the Trustees' employees working ashore.
- (3) The employees will be entitled to free rations on the scale admissible under the Home Trade Articles from time to time.
- (4) The employees shall work according to the requirements of the Master Pilot, as on a seagoing vessel, and shall be given such shore liberty as may be convenient, in accordance with the exigencies of work. The period of shore liberty will be considered to be duty for all purposes.
- (5) The employees will be considered to have worked on each day of duty, a shift of 12 hours consisting of 8 hours duty, two hours recess and two hours overtime.
- (6) The rate of overtime wages will be regulated as follows:—
  - (i) Duty in excess of eight hours (exclusive of recess) in a shift will be paid for at the rate of  $1\frac{1}{2}$  times the basic pay plus such allowances or portions thereof as may, from time to time, be considered to be in the nature of "pay" for purposes of calculation of overtime;
  - (ii) Duty in excess of nine hours in a shift (exclusive of recess) or in excess of 48 hours in a week (exclusive of recess) will be paid for at double the rate of pay plus all allowances including the monetary value of free rations;

provided that casual leave and weekly days of rest will not be considered to be days of duty for purposes of payment of overtime wages.

Another condition provided for the employees being granted a weekly day of rest on any day in the week and it was further provided that if an employee was required to work on his normal weekly day of rest he would be granted another weekly off in lieu provided that no employee shall be made to work for more than ten days consecutively without a weekly day of rest.

These rules were considered by the Government as making equally satisfactory provisions for the matters dealt with by rules 23, 24, 24A and 25 of the Minimum Wages (Central) Rules, 1950 and therefore exemption was granted to the employees of the Kennery from the operation of the Minimum Wages Act.

It will be noticed that under this resolution and the rules framed by the Bombay Port Trust, the employees on the Kennery were considered to have worked on each day of duty a shift of 12 hours consisting of 8 hours duty, 2 hours recess and 2 hours overtime and the rate of overtime wages and other conditions and terms of their employment were those stated in the rules framed by the Port Trust referred to above.

It is the Port Trust's complaint that notwithstanding the acceptance by the union of the revised rules relating to the service conditions of the employees of the pilot vessel, the union began to raise disputes relating to the agreed overtime payable to the workmen. According to the Port Trust in June 1956 the pilot vessel was withdrawn for overhauling and after the repairs were completed the crew refused to work under the said revised system with the result that the pilot vessel was off station for a long time. On the other hand, the union's story is that after it had agreed to work the pilot vessel under the revised rules framed by the Port Trust the tempo of shipping increased considerably, particularly because of the Butcher Island Oil Terminal having been put into commission, and the union found that on the then existing terms the crew of the Kennery, particularly the deck crew, did not get sufficient rest period. Therefore, in its letter dated 27th December, 1955, it pointed out that formerly the crew of the Kennery used to work under a system of fixed four hours overtime per day, similar to that of dock and harbour flotilla crews, and claimed that they should also be granted 4 hours' fixed overtime pay. The crew also appears to have addressed a petition to the Bombay Port Trust dated 25th November 1955 complaining that the workmen were not getting any recess whatsoever because of the increased tempo of work and were made to work long hours of overtime whilst being paid only two hours overtime wages. The crew claimed overtime wages at the higher rate for all work over 8 hours or that their duty hours should be so fixed as not to impose on them a period of duty more than 12 hours, excluding 2 hours recess.

It appears that on 7th June 1957 the Chairman of the Port Trust had proposed as follows:—

'I propose that the conditions of service on the pilot vessel in this regard be brought on a par with those applicable to the crews of the harbour and dock flotilla viz., that the crew of the pilot vessel be granted 4 hours overtime only, the free rations being withdrawn. The crew should also not be on Home Trade Articles. A revised set of regulations governing the service conditions of employees working on the Pilot Vessel is appended.'

(See exhibit 'K' to the Port Trust's written statement page 63).

When this proposal came up before the Finance and General Committee held on the 25th June 1957, Shri G. H. Kale, the President of the Bombay Port Trust General Workers' Union opposed it. In his letter dated 10th June 1957 Shri Kale *inter alia* stated that, "the Chairman had proposed to grant 4 hours overtime but simultaneously he had proposed withdrawal of the concession of free ration so far enjoyed by the pilot vessel men. This in effect meant less emoluments to the majority of the workmen than what they were drawing so far. Therefore, the Chairman's proposals were not likely to be acceptable to the men concerned and that they might refuse to work under the proposed service conditions. Consequently the deadlock would still continue." Shri Kale, however, appears to have stated at the meeting that the Chairman's proposals while benefiting the majority would adversely affect some men in that they would draw less emoluments after the change than they drew before it. Shri Kale, therefore, suggested that an attempt should be made to arrive at an agreed solution instead of trying to foist on the men something to which they opposed. As the cost of the proposal of the Chairman for granting 4 hours overtime without rations over that of granting 2 hours overtime with free rations was approximately Rs. 900 per month Shri Kale undertook with the assistance of the Deputy Conservator to produce a scheme in time for the board meeting the cost of which would not exceed the cost of the existing arrangements by more than Rs. 900 per month. But Shri Kale appeared to have failed to produce such a scheme and ultimately by Resolution No. 724 dated 2nd July 1957 the trustees resolved that the crew of the pilot vessel be considered to have worked on each day of duty a shift of 12 hours consisting of 8 hours' duty one hour's recess and 3 hours' overtime instead of 8 hours' duty, 2 hours' recess and 2 hours' overtime as sanctioned by T.R. No. 356 of 1955 and the grant of free

rations on the scale admissible under the Home Trade Articles from time to time was continued and it was decided to amend the provisions of regulation (6) of the regulations governing the service conditions of the employees working on the Pilot Vessel, to give effect to this resolution. The proposal by Shri Kale that the employees would not be required to put in on each day of duty, more than 12 hours' work in aggregate, and that the work in excess of 12 hours, if any, be additionally compensated for, was defeated.

I have gone into these details because Shri Maitra at the hearing seriously argued that what the Union was now demanding was what the Chairman of the Bombay Port Trust had suggested in his note dated 7th June 1957 referred to above.

The Bombay Port Trust in its written statement has on this point stated as follows:—

"In June 1957 as a result of negotiations between the Chairman of the Employers and the Union, the Chairman agreed to introduce 12 hours' shift with 4 hours' overtime subject to the condition that the crews would not be signed on home trade articles and would not be entitled to free rations which proposal was objected to by Shri Kale a Trustee of the Board of the employers and President of the Union."

At the hearing, however, Shri Nariman argued that the Chairman's proposals had really not amounted to the introduction of 12 hours' shift working, with four hours fixed overtime and withdrawal of the concession of free rations, but his (Chairman's) proposal was that the then existing system of working should continue and instead of three hours overtime and free rations, four hours fixed overtime, without free rations was to be introduced. This proposal would have imposed an additional burden of Rs. 900 per month on the Bombay Port Trust. In my opinion what the Chairman's said proposals had really amounted to is not material, because Shri Kale the President of the Union had rejected those proposals as he felt that the employees of the Kennery would not accept it because the majority of them would stand to get lower emoluments under the proposed system of 4 hours' fixed overtime without rations, than they were getting under the then existing system of 2 hours fixed overtime and 2 hours recess with free rations, and I do not think that the workmen can justify their present claim on a proposal which was rejected by them, even assuming that it was in terms the same as the present demand.

The Union's claim for two shift working and four hours fixed overtime is on the ground that the nature of the work is such that at no given time it is possible for the members of the crew to enjoy any effective recess. In support of this contention the union has referred to the scheduled duty hours of the various categories of employees on the Kennery and also laid stress on the increased tempo of work of the pilot vessel necessitated by the increased number of ships that are now being handled. In support, the union has in its written statement given the figures of the number of ships which were handled during the first three months of the years 1958, 1959 and 1960, which undoubtedly bear out that there has been a considerable increase in the number of ships handled by the pilot vessel crew.

In order to deal with this contention it is necessary to refer to the duties of the employees of the Kennery which are divided into the deck crew and the engine room crew. The union's contention is that the crew on both the deck side and on the engine room side have to do strenuous work for long hours far in excess of 12 hours. With regard to the deck crew it is pointed out that the deck crew have to hoave and lower the jolly boats and man them to take the pilot to the incoming vessel and bring him back from the outgoing vessel. When the deck crew have no ships to attend to or when the Kennery is in the dock the deck crew have to wash down the decks, attend to maintenance work, brass polishing etc. from 07-00 hours to 08-00 hours, 10-00 hours to 12-00 hours and 14-00 hours to 16-00 hours; and in addition the lascars have to maintain two hours watch in rotation from sunset to sunrise. Details of the duties of the deck crew and their hours of work are stated in detail in the letter dated 1st August 1955 from the Ag. Master Pilot to the Deputy Conservator, Bombay Port Trust which is exhibit 'M' to the Port Trust's written statement. From this it appears that the deck crew's hours of work when there are no ships to attend to or when the vessel is in dock are only five hours and that when there has been a busy night the crew only do washing down in the morning and are not given any day work. The Port Trust has explained that the crew are given maintenance work of the pilot vessel only when there is a very slack day for shipping and that too only during the hours stated above. It is, however, admitted that during the monsoon period the deck crew are not worked in two shifts of 12 hours as during that time the entire crew is required to heavy up the jolly boat when the boat's work is finished.

With regard to the engine room crew, the engine drivers work in a system of 48 hours on duty and 48 hours off duty and one serang and one tindal do alternatively 6 hourly shifts for two days at a time, and they go ashore on the following two days. Of the greasers, three perform duties of 4 hours on and 8 hours off and one greaser is on shore leave for two days after every six hours in rotation. The other two greasers are on duty for 8 hours a day and they get two days shore leave every five days. Electricians and wiremen perform their duties in a system of 48 hours on duty and 48 hours off duty. The duty hours of the cook, pantryman and two general servants have also been referred to by the Union.

The union has led the evidence of the Master pilot who was in charge of the S.P.V. Kennery, Shri Upkan Jimmy Singh Chopra. According to this witness on certain days the deck crew of the S.P.V. Kennery work for 13 hours. He stated that he had taken two periods at random of the number of hours worked by the deck crew during fair weather and foul weather and he found that between 1st to 11th May 1961 no member of the crew worked for more than 11 hours. He further found that during the period from 1st June 1961 to 10th June 1961 which was during foul weather no member of the crew worked for more than 13½ hours. These were random samples taken from the log book and he produced two statements giving details of the additional hours worked and shifts performed including the normal working hours (Exts. E-4 and E-5). He stated that the crew of the Kennery worked hard and that during foul weather the work of embarking and disembarking a pilot could be hazardous. However, the statements filed by this witness show that sometimes the total number of hours worked in the day by certain categories of workmen are as low as 5 hours actual working and the maximum number of hours worked has not exceeded 13½ hours.

During the discussions with the Chairman, after the reference was made the log book of the Kennery appears to have been examined in the presence of the union's representatives and the entries in the log book according to the Bombay Port Trust showed that the periods of active employment of the vessel's crew are too small to justify the grant of even 3 hours fixed overtime. It appears that the union was called upon to produce alternative figures relating to the amount of work in justification of the demand for 4 hours over fixed overtime which it was unable to do.

In the absence of any reliable evidence it is not possible to hold as alleged by the union that each member of the crew of the Kennery has regularly to work for longer hours than 12 on each day. The statements filed by Shri Chopra, do not support this claim.

In opposing the demand for any increase in the overtime hours the Bombay Port Trust has filed a comparative statement showing the earnings of the deck crew of the harbour flotilla and the earnings of like categories of workmen in the S.P.V. Kennery on the existing hours of work, rates of pay and overtime. The statements give the figures of their earnings by way of basic pay, dearness pay, dearness allowance, house rent allowance and compensatory allowance in the case of the harbour flotilla and the earnings of the crew of the pilot vessel Kennery made up of those items plus the value of free rations. In that statement the Port Trust has computed the value of the free rations at Rs. 35 to Rs. 40 per month for each crew. Shri Chopra, the Master Pilot, in his evidence stated that the monetary value of the rations given to each member of the crew of the pilot vessel was Rs. 41.50 per month. It may also be noticed that when the rate of payment for overtime work is calculated, the cash value of the rations is also taken into account. From these statements of the management, it is found that the crew of the Kennery earn substantially more on the basis of 8 hours work plus three hours overtime with the benefit of free rations than what they would earn if they were to be given 8 hours work plus four hours overtime without the benefit of rations. At the hearing the case of a bhandary on a pay scale of Rs. 40-1-45 and of a second class stoker on Rs. 45-1-55 was examined and it was found that if they were to be granted 4 hours overtime without rations they would stand to lose to the extent of Rs. 45.13 per month. It was admitted at the hearing that the crew of the Kennery who were on lower scales of pay would stand to lose if the present method of payment of three hours fixed overtime with free rations, were to be changed to 4 hours overtime without rations.

It is urged on behalf of the Port Trust that considering the functions of the pilot vessel it would not be feasible to have two shifts of 12 hours each a day which would necessitate the pilot vessel having to come back to shore every 12 hours instead of once in 24 hours as at present. The Port Trust has pointed out that the present system of working has been in force from the beginning and that if the crew of the pilot vessel were to be changed for work in two shifts of

12 hours each the pilot vessel would have to leave her station and move up and down the harbour which would have undesirable consequences and also involve employment of more staff. The union's demand for two shifts is mainly based on the fact that the pilot vessel forms part of the Deputy Conservator's flotilla and as vessels of that flotilla are worked in two shifts of 12 hours each the pilot vessel also should be made to work in two shifts of 12 hours each and the crew be paid as per four hours fixed overtime without the benefit of rations. Shri Maitra at the hearing wanted this concession to be withdrawn and had applied for deletion of the last sentence in the demand under reference. But that was on the footing that the existing three hours overtime should be raised to four hours overtime with the continuation of the free rations and I have already dealt with this aspect of the question.

The union has laid stress on the difficult nature of the work on the pilot vessel and the hazards involved in the work. That no doubt is true. But that in my opinion would be a factor which enters into their wage fixation and would not justify the changeover into two shift working.

The Port Trust has argued that considering the hours the crew actually work and the hours they get off on shore leave, which is treated for the purposes of overtime calculation as on duty, the condition of work of the crew is, if anything, easy.

I have carefully considered the submissions of the parties and in view of the fact that the present system has been in force since the beginning and that even under the existing system the crew of the pilot vessel are on the whole better remunerated than the crew on the dock flotilla, I am not satisfied that I will be justified in making any change in the existing system of working the pilot vessel.

On an anxious consideration of all the facts and circumstances I am not satisfied that a case has been made out by the union to justify the grant of the demand. The demand is therefore rejected.

I cannot part with this dispute, without observing that the adjudication on various demands was made difficult by their loose wording. On several demands the real subject matter of the dispute between the parties was materially different from the one, the wording of the demand suggested. Shri Maitra, the General Secretary of the Bombay Port Trust General Workers' Union has stated that these demands were formulated for consideration of the Bombay Port Trust, and the Union has then no idea that these demands as worded would be referred for adjudication by Government. But it has to be remembered that in formulating these demands, the Union was raising an Industrial Dispute over them, and as such greater care should have been bestowed on the wording of these demands than appears to have been done.

I make no order as to costs.

Sd./- SALIM M. MERCHANT,  
Presiding Officer,  
Central Government Industrial Tribunal,  
Bombay.

#### ANNEXURE I

#### B. P. T. GENERAL WORKERS' UNION

Kavarana Building,  
Frere Road, Bombay-9

Ref. No. GWU-33/61-62.

Shri Salim M. Merchant,  
Presiding Officer,  
Central Govt. Industrial Tribunal,  
City Ice Building, 4th floor,  
Bazargate Street, Bombay-1.

Dear Sir,

SUBJECT:—Reference No. CGIT-24 of 1960 Demand No. 30.

With reference to the above subject we have the honour to submit that as per your direction on the matter the question of arranging shifts to the Water Supply Lascars, so as to avoid grant of two weekly days of rest in a week, was discussed with the employers' representatives Sarvashri S. K. B. Vasodeo, Deputy Docks

Manager (Hamallage) and V. B. Desai, Chief Inspector 'Docks', by the President of this Union, Shri G. H. Kale. It was submitted by this Union that the Water Supply Lascars can be granted staggered weekly day of rest in the following manner:—

2. (a) That the existing groups 'A', 'B', 'C' and 'D' should be re-shuffled into three groups only consisting of 50 men in each group.
- (b) That on each day 21 men in all from the three groups or 7 men from each of the group can be granted weekly day of rest.
- (c) The men will work in rotation in the three shifts i.e., 1st shift 24/30 to 07-00 hours; 2nd shift 08-00 to 17-00 hours and the 3rd shift from 17-30 to 24-00 hours. Men from the 1st shift will work after one week in the 3rd shift; men from the 2nd shift will work after one week in the 1st shift and men from the 3rd shift will work in the 2nd shift after a week. This system of rotation can continue without upsetting the existing efficiency of working.
- (d) The weekly day of rest of all employees once fixed should continue to be the same for a minimum period of three months.

3. After detailed discussions on the aforesaid proposals by the President of this Union with the officers under reference, we are glad that our proposals have been accepted by the authorities and they have expressed their willingness to adopt and introduce the said changes if asked for by this Union on behalf of the employees concerned.

4. Under the circumstances we have to request the Hon'ble Tribunal to kindly make an award as per the terms of the aforesaid proposals. Regarding our claim for payment of overtime wages with retrospective effect, it is requested that the Hon'ble Tribunal may make its award after considering the submissions made by the authorities at the hearing.

Yours faithfully,

Sd./-

General Secretary.

#### ANNEXURE II. BOMBAY PORT TRUST

Telegram & Cables:—  
"PORTRUST BOMBAY"

No. PU/GEE-G(U)/1411.

To

Shri Salim M Merchant,  
Presiding Officer,  
Central Govt. Industrial Tribunal,  
4th floor, City Ice Building,  
298, Bazarigate Street, Fort,  
Bombay-1.

Administrative Officers,  
Ballard Road, Fort,  
Bombay-1, 7th September 1961.

Sir,

Reference No. CGIT-24 of 1960 Demand No. 36

With reference to your letter No. Ref./24/60/2524/61 dated 29th August 1961 on the above subject, I am directed to state that it has hitherto been the practice in the Docks Department to alternate weekly the men in every category of outdoor staff who are required to work in all three shifts, from the day shift to the night shift, i.e., a man who works one week in the day shift is posted during the next week either in the second or in the third shift. The weekly offs are so arranged that no man is required to work successively for two weeks or longer during the night shifts. It was because of this arrangement that it was not possible to avoid the fixation of two weekly offs during any week.

The proposals now put forward by the Union are acceptable to this Administration except that the regrouping of the men in three groups as proposed by the Union will result in a shortage of men during the day shift in the event of heavy absenteeism amongst them and some of the men will have to work successively



in two night shifts. This fact was brought to the notice of Shri Kale in discussion and he had verbally agreed that if ever such a shortage occurred one man would be required to attend to more than one meter.

Yours faithfully,

Sd./- S. D. CHITTAR,  
Deputy Secretary.

No. PU/GEE-G(U)/1412

Copy forwarded to the General Secretary, B.P.T. General Workers' Union Bombay.

The 7th September 1961

Sd./- S. D. CHITTAR,  
Deputy Secretary.

[No. 28/42/60/LR.IV.]

New Delhi, the 26th October 1961

S.O. 2618.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following awards of the Labour Court, Delhi, in the matter of applications under section 33A of the said Act from certain employes of the Devkaran Nanjee Banking Company Limited, Bombay and the Canara Industrial and Banking Syndicate Limited.

BEFORE THE CENTRAL GOVERNMENT LABOUR COURT AT DELHI

PRESENT:

Shri E. Krishna Murti,

Central Government Labour Court, Delhi.

5th October, 1961.

APPLICATION UNDER SECTION 33A OF THE INDUSTRIAL DISPUTES ACT, 1947.

I.D. No. 200 of 1961.

Shri S. Natarajan, Accountant, Dena Bank, Mattancherry, Cochin-2—  
*Applicant.*

Vs.

M/s. Devkaran Nanjee Banking Co. Ltd., 17, Horniman Circle, Fort, Bombay-1—*Respondent.*

Sarvashri N. V. Padhke and N. R. Pandit—*for the management.*

Shri S. Natarajan workman in person.

In the matter of Complaint No. 92 of 1961 in Reference No. 1 of 1960, pending before the National Industrial Tribunal (Bank Disputes), Bombay-1.

#### AWARD

This is an application under Section 33A of the Industrial Disputes Act.

2. The petitioner alleges, that he was working in the respondent bank from over 15 years, that the opposite party has contravened the provisions of Section 33 of the Industrial Disputes Act in various ways, that he was working in the Bombay Branch all along, that he was transferred to Cochin by way of punishment and to victimise him for trade union activities, that he had all along been a trade union worker, that the transfer is against the directions in the Sastry Award, and that the bank should be directed to re-transfer him to Bombay, and also put an end to the alteration in the conditions of service by restoring the old conditions of service.

3. The contention on behalf of the bank is, that the petition is not maintainable, that this court has no jurisdiction to entertain the same, that there is no contravention of Section 33, that Section 33A is not attracted at all, that there has been no alteration of the conditions of service, that the transfer of the workman to Cochin is perfectly valid, and that the workman is not entitled to any relief.

4. The issues, that arise for determination, are:—

- (1) Whether there is a contravention of Section 33 of the Industrial Disputes Act?
- (2) Whether the petition is maintainable under Section 33A, and whether this court has jurisdiction to entertain the same?
- (3) Whether there has been an alteration of the conditions of service, as complained of, by him?
- (4) Whether the transfer of the petitioner from Bombay to Cochin amounts to punishment, and whether it is not *bona fide*, as contended on behalf of the petitioner?
- (5) To what relief, if any, is the petitioner entitled?

Issues No. 1 and 2

5. This is a petition under Section 33A of the Industrial Disputes Act, filed by Shri S. Natarajan, who was working in the Bombay Branch of the respondent bank. It is alleged in the petition, that he is a workman employed by the opposite party from about 15 years. The complaint of the workman is, first, that there was reduction in provident fund contribution, effective from 1st July. The second complaint is, that there was a reduction in the quantum of bonus paid to the workman. The third is, that he was transferred from Bombay to a far off place, with a view to victimise him, and that the exercise of such power is a colourable exercise of the power vested in the management. It is alleged in the petition, that, on account of this illegal transfer, the petitioner has been adversely affected in the matter of seniority, work load, status, medical aid benefit, house rent allowance, etc. The prayer of the petitioner is, (1) that the illegal and *mala fide* order of transfer should be set aside, and that the management of the bank should be directed to transfer the petitioner to Bombay, with restoration of original status and service conditions attached thereto at the time of transfer, (2) to direct the bank not to reduce the quantum of, or the rate of provident fund contribution, and (3) to direct the bank to pay bonus at the rate of 1/12th of the total emoluments till some settlement or award on the bonus issue is made applicable.

6. In my opinion, the contention on behalf of the management, that the petition, as brought, is not maintainable, and that this court has no jurisdiction to entertain the same, is well founded. The petitioner's complaint is, that there has been an alteration of the conditions of service, applicable to him. It is alleged, that the provident fund contribution is not at the same rate, that he was transferred to Cochin *mala fide*, and contrary to the provisions of the Sastry Award, and that he should also be paid bonus. It is important to bear in mind, that the service conditions, that are referred to in Section 33, are the service conditions applicable to the workman before the commencement of the proceedings. If there has been only an alteration in the conditions of service to the prejudice of the workman, then that cannot give him a cause of action to file this petition under Section 33A. Because it is clear, that only Section 33(2) can apply to the facts of this case. Section 33(3) of the Act has no application, because the petitioner is not a protected workman, and there is no material on record in proof of the same. Neither does Section 33(1) apply to the facts of this case. The items now in dispute are by no means connected with the industrial dispute pending before the National Tribunal. In this connection I may also refer to the allegations at page 2 of the petition, wherein it is mentioned as follows:—

"Here it is brought to the notice of this Hon'ble National Tribunal that the items of Provident Fund and bonus are not covered under the settlement, dated 28th September 1960."

It is common ground, that there was an interim settlement between the bank and its workmen on 28th September 1960, but this was subsequent to the commencement of the proceeding. According to the allegations referred to above, the reliefs, that the workman claims in regard to the provident fund and bonus, are not within the terms of the settlement. When Section 33(1) and (3) have no application to the facts of this case, I am unable to hold, that this court has jurisdiction to entertain the petition. If there has been an alteration of the conditions of service to the prejudice of workman, under Section 33(2) the management are not bound to seek approval, or prior permission. Under Section 33(2) the proviso directs, that the management must seek approval only in the case of discharge or dismissal for misconduct. In the decision in

Lord Krishna Textile Mills Vs. Its workmen (1961 I LLJ 211) it was laid down by the Supreme Court as follows:—

“It is obvious that in cases of alteration of conditions of service falling under Section 33(2) (a) no such approval is required and the right of the employer remains unaffected by any ban. Therefore, putting it negatively the jurisdiction of the appropriate industrial authority in holding an enquiry under Section 33(2) (b) cannot be wider and is, if at all, more limited, than that permitted under Section 33(1), and in exercising its powers under Section 33(2) the appropriate authority must bear in mind the departure deliberately made by the legislature in separating the two classes of cases falling under the two sub-sections, and in providing for express permission in one case and only approval in the other. It is true, that it would be competent to the authority in a proper case to refuse to give approval, for Section 33(5) expressly empowers the authority to pass such order in relation to the application made before it under the proviso to Section 33(2) (b) as it may deem fit; it may either approve or refuse to approve; it can, however, impose no conditions and pass no conditional order.”

Therefore, the management were not bound to seek approval. In the above circumstances, there is no contravention of Section 33 and in the absence of such contravention, this petition does not lie. In the decision in *Equitable Coal Limited* (1958 I LLJ 793) it was laid down by the Supreme Court as follows at page 795—

“If the employer contravenes the provisions of Section 22, the employee is entitled to make a complaint in writing in the prescribed manner to the Appellate Tribunal and, on receiving such complaint, the Appellate Tribunal has to decide the complaint as if it is an appeal pending before it. The breach of the provisions of Section 22 by the employer is in a sense conditions precedent for the exercise of the jurisdiction conferred on the Labour Appellate Tribunal by Section 23. As soon as this condition precedent is satisfied, the employee is given an additional right of making the employer's conduct the subject-matter of an industrial dispute without having to follow the normal procedure laid down in the Industrial Disputes Act. In an enquiry held under Section 23, two questions fall to be considered: Is the fact of contravention by the employer of the provisions of Section 22 proved? If yes, is the order passed by the employer against the employee justified on the merits? If both these questions are answered in favour of the employee, the Appellate Tribunal would no doubt be entitled to pass an appropriate order in favour of the employee. If the first point is answered in favour of the employee, but on the second point the finding is that, on the merits, the order passed by the employer against the employee is justified, then the breach of Section 22 proved against the employer may ordinarily be regarded as a technical breach and it may not, unless there are compelling facts in favour of the employee, justify any substantial order of compensation in favour of the employee. It is unnecessary to add that, if the first issue is answered against the employee, nothing further can be done under Section 23.”

In the decision in *Central Bank of India Ltd Vs. Mecnakshisundaram* (1959 I LLJ 446), it is also made clear, that the question, that arises is one of jurisdiction. It is observed as follows by the Supreme Court at page 449—

“As the respondent's services had not been ended during the period stated in Section 22, it is clear, that the provisions of that section did not apply. Since the provisions of Section 22 did not apply, the petition filed by the respondent under Section 23 was misconceived, and the tribunal had no jurisdiction to entertain it.”

Therefore, unless the petitioner succeeds in proving, that there is contravention of Section 33 of the Industrial Disputes Act, this petition cannot be entertained by this court, and this court would have no jurisdiction to deal with the same.

7. From the decisions cited above, it is clear, that this Labour Court has no jurisdiction to entertain the petition, when there is no contravention of Section 33. I find, that the petition, as brought, is not maintainable, and that this Labour Court has no jurisdiction to deal with the same.

*Issues No. 3 and 4*

8. In view of my findings above, these issues do not arise for determination.

*Issue No. 5*

9. In the result, the petition is dismissed as not being maintainable. No order as to costs.

10. An award is passed accordingly.

(Six pages).

The 5th October, 1961.

(Sd.) E. KRISHNA MURTI,  
Central Government Labour Court,  
Delhi.

## BEFORE THE CENTRAL GOVERNMENT LABOUR COURT AT DELHI

## PRESENT:

Shri E. Krishna Murti,  
Central Government Labour Court, Delhi.

5th October, 1961.

APPLICATION UNDER SECTION 33A OF THE INDUSTRIAL DISPUTES ACT, 1947.

I.D. No. 222 of 1961.

## BETWEEN

Shri C. G. Viswanathan, Shantiniketan, 8th Road, Chambur, Bombay-71.—  
*Complainant.*

*Versus*

M/s. Devkaran Nanjee Banking Co. Ltd., 17, Horniman Circle, Fort,  
Bombay-1.—*Respondent.*

Shri N. V. Padke and Shri N. R. Pandit—for the management.

Shri C. G. Viswanathan workman in person.

In the matter of Complaint No. 101/1961 in Reference No. 1 of 1960, pending before the National Industrial Tribunal (Bank Disputes), Bombay-1.

## AWARD

This is a petition under Section 33A of the Industrial Disputes Act.

2. It is alleged on behalf of the petitioner, that he has been working for the last 12 years with the opposite party—bank, that the opposite party has contravened the provisions of Section 33 of the Industrial Disputes Act by effecting a change in the conditions of service to his prejudice, that they have imposed upon him reduced scale of pay contrary to the agreement before the National Tribunal, that they have reduced the quantum of bonus paid to him, that they have reduced the provident fund contribution, that the action of the management is illegal, and *mala fide*, and that suitable relief may be granted to him.

3. The contention on behalf of the opposite party bank is, that this court has no jurisdiction in the matter, that there is no breach of Section 33, that the bank denies that the petitioner is a workman, to whom the Sastry Award or any other award applies, and that he is not entitled to the relief claimed.

4. The issues, that arise for determination, are:—

- (1) Whether there is a contravention of Section 33 of the Industrial Disputes Act?
- (2) Whether the petition, as brought, is maintainable?
- (3) Whether there has been an alteration in the conditions of service of the workman to his prejudice?
- (4) Whether the petitioner is entitled to the various reliefs, asked for by him?
- (5) To what relief, if any, is the petitioner entitled?

Issues No. 1 and 2

5. This is a petition under Section 33A of the Industrial Disputes Act, preferred by Shri C. G. Viswanathan, an employee of M/s. Devkaran Nanjee Banking Company Limited. It is alleged by the petitioner, that he has been working in the bank for the past about 12 years.

6. The contention on behalf of the workman is, that the bank has altered the conditions of service to his prejudice, that he is a workman governed by the Sastry Award, and that suitable reliefs may be granted to him.

7. The contention on behalf of the bank is, that the petitioner is not a workman within the meaning of the Industrial Disputes Act, and is not governed by the Sastry Award, that there has been no change in the conditions of service, and that in any case this Tribunal has no jurisdiction to entertain this petition because there is no contravention of Section 33.

8. It is well settled, that a petition under Section 33A will not lie unless there is a contravention of Section 33. The question arises, whether there is a contravention of Section 33. The petitioner alleges, that the opposite party has contravened the provisions of Section 33 of the Industrial Disputes Act (a) by their effecting change in the conditions of service to his prejudice in imposing upon him a reduced scale of pay, and the method of adjustment connected therewith contrary to the agreement in respect of the petition of 18th October 1960 before the National Tribunal on 14th November 1960, (b) by their reducing the quantum of bonus paid to the petitioner, (c) by their reducing the provident fund contribution of the petitioner with proportionate reduction in the bank's contribution, (d) by not redressing all the legitimate grievances of the petitioner against the opposite party, connected with disputes pending before the National Tribunal, and (e) by their illegal and *mala fide*, and unjustified refusal to grant leave in an emergency. It will thus be seen, that the alleged contravention of Section 33 is said to have taken place on account of alteration of the conditions of service to the prejudice of the petitioner. In the prayer portion of the petition, it is prayed, that the bank should be directed (a) to restore his lawful rank as Accountant, (b) to pay and continue to pay bonus till there is a settlement or award on the bonus issue, (c) not to reduce the quantum or rate of provident fund, (d) to implement the scheme of settlement, as agreed upon on 14th November 1960 before the National Tribunal, and to pay the compensatory allowances, as Graduate Allowance, Banking Diploma Allowance, Special Supervisory Allowance, payable to him, and to pass such other orders as may be required. A perusal of the petition will show, that what the petitioner is complaining is, that there has been a contravention of Section 33, because the bank has altered the conditions of service, applicable to him, to his prejudice. It is relevant to note, that under Section 33 of the Industrial Disputes Act, the conditions of service the alteration of which to the prejudice of the workman is tried to be prevented, are those applicable to the concerned workman immediately before the commencement of the proceedings.

9. It is clear, that if there was non-implementation of the terms of the agreement, alleged to have been reached before the National Tribunal in November, 1960, that would not be a contravention of the terms and conditions of service applicable to the workman before the commencement of the proceeding, before the date of reference to the National Tribunal, which was in March, 1960. Leaving this apart, the management do not admit, that the petitioner is a workman. Even assuming, without deciding, that the petitioner is a workman, there is no contravention of Section 33 by the management, even granting for the sake of argument, that the Sastry Award applies to the petitioner, and that they constitute the terms and conditions of service applicable to him. Because, in the first place, he is not a protected workman, and Section 33(3) has no application to the facts of the present case. There is no satisfactory proof, that he is a protected workman within the meaning of Section 33(3). Neither can it be held, that Section 33(1) applies to the facts of the case. The matters, that are now in dispute, and in respect of which the contravention is complained, of, are not connected with the dispute before the National Tribunal. The alteration, complained of, in respect of pay scales and provident fund contribution, and bonus, cannot have any reference to the agreement, that was arrived at between the parties subsequent to the commencement of the proceedings. If at all Section 33(2) can apply, but it is clear, that no management is bound to apply for approval for a mere alteration of the conditions of service. The proviso to that section shows, that it is only in case of discharge or dismissal for misconduct unconnected with the dispute, that the management is bound to comply with the

conditions laid down in the proviso, namely, pay one month's wages, and apply for approval. This is made clear in the decision of the Supreme Court in *Lord Krishna Textile Mills Vs. Its workmen* (1961 I LLJ 211), wherein the following is laid down:—

"It is obvious that in cases of alteration of conditions of service falling under S. 33(2) (a) no such approval is required and the right of the employer remains unaffected by any ban. Therefore, putting it negatively the jurisdiction of the appropriate industrial authority in holding an enquiry under S.33(2)(b) cannot be wider and is, if at all, more limited than that permitted under S.33(1), and in exercising its powers under S.33(2) the appropriate authority must bear in mind the departure deliberately made by the legislature in separating the two classes of cases falling under the two sub-sections, and in providing for express permission in one case and only approval in the other. It is true, that it would be competent to the authority in a proper case to refuse to give approval, for S.33(5) expressly empowers the authority to pass such order in relation to the application made before it under the provision to S.33(2)(b) as it may deem fit; it may either approve or refuse to approve; it can however, impose no conditions and pass no conditional order."

Therefore, the management were not bound to apply for approval, and in the above circumstances, there is no contravention of Section 33 in any manner whatsoever. Accordingly this petition under Section 33A does not lie.

10. It is well settled, that in the absence of contravention of Section 33, a tribunal or a labour court will not have jurisdiction to entertain any petition under Section 33A. This is clear from the decision of the Supreme Court in the *Central Bank of India Limited Vs. Meenakshisundaram* (1959 I LLJ 446), where the following observations occur:—

"As the respondent's services had not been ended during the period stated in Section 22, it is clear, that the provisions of that section did not apply. Since the provisions of Section 22 did not apply, the petition filed by the respondent under Section 23 was misconceived and the tribunal had no jurisdiction to entertain it."

The decision in *Equitable Coal Limited* (1958 I LLJ 783) is the relevant in this connection.

11. For the reasons mentioned above, I find, that there is no contravention of Section 33 of the Industrial Disputes Act, that this petition under Section 33A does not lie, and that this Labour Court has no jurisdiction to entertain the same.

#### *Issues No. 3 and 4*

12. In view of my finding, as above, no questions regarding the merits of the dispute arise in this proceeding for determination, and are left open.

#### *Issue No. 5*

13. The petitioner is not entitled to any relief in this petition.

14. In the result, the petition is dismissed, as not maintainable. There is no order as to costs.

15. An award is passed accordingly.

(Six pages).

The 5th October, 1961.

(Sd.) E. KRISHNA MURTI,

Central Government Labour Court,  
Delhi.

BEFORE THE CENTRAL GOVERNMENT LABOUR COURT AT DELHI

PRESENT:

Shri E. Krishna Murti,

Central Government Labour Court, Delhi

29th September, 1961

APPLICATION U/S 33A, OF THE INDUSTRIAL DISPUTES ACT, 1947

I.D. No. 198 OF 1961

Shri B. Prabhakar Rao (at Malvan), C/o The Canara Industrial & Banking Syndicate Employees' Union, Khandelwal Bhavan, 1st Floor, 166, Dr. Dadabhai Nowroji Road, Fort, Bombay-1.—*Complainant*.

*Vs.*

The Canara Industrial & Banking Syndicate Ltd., H/O., Udipi (South Kanara).—*Respondent*.

Shri G. S. Nagarkar—*for the management*.

Shri K. K. Mundal—*for the workman*.

In the matter of Complaint No. 89 of 1961, in Reference No. 1 of 1960, pending before the National Industrial Tribunal (Bank Disputes), Bombay-1.

AWARD

This is a petition under Section 33A of the Industrial Disputes Act.

2. The petitioner alleges, that he was a clerk employed by the respondent Bank, that he was working at the Fort Branch of the Bank, that he was relieved of his duties on 15th March 1961 on the ground, that the Fort Office had received instructions from the Head Office at Udipi, that they had transferred the petitioner to Malvan Branch of the Bank, that the confirmatory letter of the Head Office, dated 14th March 1961 was subsequently received by the petitioner on 29th March 1961 at Malvan, that his representation against the transfer was not heeded that the opposite party has acted arbitrarily, and capriciously towards the petitioner in imposing the punishment of transfer, and acted vindictively towards a trade union worker, that, as a result of transfer, the workman suffered loss of earnings, that the transfer is not *bona fide*, and is not based on the ground of exigencies of business, and that the Bank should be directed to re-transfer the petitioner to Bombay from Malvan, and give such other relief, as he may be entitled to.

3. The contention on behalf of the Bank is, that no change in service conditions has been effected, that it is not true, that the transfer was by way of victimisation, or for trade union activities, that the transfer to Malvan Branch is an administrative matter, and was effected to fill up a vacancy, that there was surplus staff at Bombay Branch, that the Bank had no occasion to know about the trade union activities of the workman, that the workman is getting a higher basic pay, that there is no force in the complaint of loss of emoluments, and that the workman is not entitled to any relief.

4. The issues, that arise for determination, are:—

- (1) Whether the transfer of the workman is wrongful, and is not *bona fide*, and is an act of victimisation, as contended on behalf of the workman?
- (2) Whether the transfer is lawful, and *bona fide*, as contended on behalf of the management?
- (3) To what relief, if any, is the workman entitled?

Issues No. 1 and 2

5. The petitioner was working as a clerk in the Fort Branch of the Bank at Bombay. It is common ground, that he was relieved of his duties in the Fort Branch of the Bank on the 15th March, 1961, with directions to proceed to Malvan, to place which he was transferred. It is alleged in paragraph 9 of the counter statement, that a confirmatory letter of the Head Office at Udipi, dated 14th March, 1961 in regard to the transfer was subsequently received by

the petitioner on 20th March 1961 at Malvan. The petitioner obeyed the order of transfer. The present petition has been filed impeaching the order of transfer as being *mala fide* and it is contended on behalf of the workman, that he was transferred to Malvan with a view to victimise him.

6. Turning to the documents, Ext. W/5, dated 15th March, 1961 is the letter given by the Manager of the Fort Branch to the petitioner informing him, that telegraphic instructions had been received from the Head Office at Udipl to the effect, that he had been transferred to Malvan Office, and that he must join duty there, and that he was given three days joining time. The petitioner made a representation against the transfer, and a copy thereof is Ext. W/2, dated 20th March, 1961. He asserted in paragraph 5, that his transfer was made to victimise him for his lawful trade union activities, that it brought about a reduction in his total emoluments, and that he might be permitted to work in the Bombay Fort Office. Ext. W/6, dated 24th March, 1961 is a letter containing Head Office instructions, that the transfer of Shri B. Prabhakar Rao was confirmed. Ext. M/4 is a letter, dated 23rd March, 1961 by the Head Office to Shri Prabhakar Rao, informing him, that his transfer to the Malvan Branch stood, that the Head Office was not aware of his union activities, that the transfer was made on administrative grounds, and that it must be complied with. Ext. M/5 is a letter, dated 23rd March, 1961 from the Head Office to the Manager of the Malvan Branch, that Shri Prabhakar Rao had been transferred from the Bombay Fort Branch. Ext. M/6, dated 17th April, 1961 is a letter addressed to Shri Prabhakar Rao by the Head Office sanctioning privilege leave for 10 days from 20th March, 1961 to 29th March, 1961, waiving as a special case the prescribed notice. Ext. M/9, dated 23rd March, 1961 is the communication sent to the General Manager at the Head Office at Udipl by a member of workman of the Bank, who had signed therein, urging upon the Head Office to duly consider the representation made by Shri Prabhakar Rao and cancel the transfer order to Malvan.

7. At the outset, the contention on behalf of the workman is, that he was transferred to Malvan outside Bombay, and that this amounts to an alteration in the conditions of service. This contention is however untenable. Ext. M/1 is the application of the petitioner for a position in the Bank. Question No. 24 therein was, whether the petitioner was ready to work in any of the offices, and the answer was, that the petitioner was prepared to work in any Branch. Ext. M/2 is the order of appointment, dated 26th February, 1960, informing the petitioner, that the appointment was subject to the rules and regulations of the Bank, and that for the present, he was posted to the Bombay Branch. Ext. W/3 is dated 21st May, 1959, and therein the petitioner wrote, that the Bank had been kind enough to select him for admission to the Staff Training College, Udipl, that he had communicated his consent, that there was a vacancy at Bombay, and that he would feel grateful, if he was appointed in this vacancy. Ext. W/4 is the letter, dated 1st June, 1959, informing the workman, that he was appointed as a temporary clerk to work for a period of six months at the Fort Branch, and that the appointment was subject to all the rules and regulations, governing the staff of the Bank. There can be no doubt at all, that transfer to any of the branches of the Bank, was one of the conditions of service of the Bank, and it was part of the rules and regulations. The workman did agree to serve in any branch of the Bank. The evidence of Shri Prabhakar Rao, examined as W.W. 1, is, that on 20th October, 1959 he was transferred to Baroda, and that he worked there. It is idle to contend, that the management is guilty of infringing the rules and conditions of service by transferring the workman from the Bombay Fort Branch to the Malvan Branch of the Bank.

8. The next contention, that has been raised, is, that by the transfer to Malvan, the workman's emoluments were affected adversely, and that, therefore, there is a change in the conditions of service to the prejudice of the petitioner. This contention also is untenable. The fact, that the workman did not get the same house rent allowance, or dearness allowance as in Bombay, at Malvan, does not mean, that there is a change in the conditions of service. This is one of the consequences of transfer from a higher area to a lower area. By no means can it be held, that reduction in the above mentioned emoluments consequent on such transfer amounts to a change in the conditions of service. I find, that in transferring the workman to Malvan, the Bank did not change the conditions of service applicable to him, whether under the terms of the Sastry Award, or according to the rules and regulations of the Bank.

9. The question then is whether the transfer is *bona fide* as contended by the management. According to the evidence of W.W. 1, he was studying in Bombay. He came to Bombay to study cost accountancy. He joined Cost



Accountancy Classes. The management knew, that he was studying. He had also applied for a loan to pay his fees. It is contended, that he was transferred out of Bombay in order to deprive him of the opportunity to improve his prospects by further study. In this connection, reference may be made to the circular issued on behalf of the Bank, Ext. M/3, dated 5th May, 1961. It is mentioned therein, that some of the employees had joined colleges, or evening classes, without obtaining prior permission of the Bank, that those, who had already joined the colleges, without prior permission, were doing so at their own risk, and responsibility, that grant of leave as and when required for purposes of study would depend on exigencies of service, and office convenience, that the office could not show any special consideration, and that such of the employees, who obtained leave on false pretext, would be liable to punishment, and disciplinary action. I am not able to perceive anything in Ext. M/3, as proving, that the transfer of the workman was *mala fide*, and that it was done with a view to deprive him of the benefit of his further study. He was first and foremost an employee of the Bank, and his primary duty and loyalty was to the institution, which provided him with employment. If an employee wanted to improve his prospects by further study, that could not stand in the way of his being transferred to any other branch of the Bank, situated at a place other than Bombay. After all the Bank had to carry on its business, and transfers of employees from one branch to another are a necessary feature of administration. The exigencies of business and office administration are the factors to be taken into account, in effecting transfers. No employee can ever be heard to say, that, because he was studying in Bombay, he could not be transferred out of Bombay, and that any such transfer to a station outside Bombay amounts to victimisation. This is an untenable contention, and cannot be countenanced. Transfer of an employee from one branch to another is a condition of service, and it depends upon the exigencies of business. The workman had been posted at his request to Bombay on an earlier occasion. He had also been transferred from Baroda to Bombay. The workman also admits, that he was a bachelor. I see no sufficient grounds for holding, that in choosing the petitioner for transfer to Malvan the Bank acted *mala fide*, or that the act of transferring the petitioner to Malvan amounts to victimisation. In the decision in Bareilly Electricity Supply Company Ltd. (1960 I LLJ 556), the question arose with respect to the transfer of a person from one department to another. It was held, that it was a matter of internal arrangement, and that industrial tribunals should be very careful before they interfered with the orders made in the discharge of the management function in this behalf. On the facts of the present case I am unable to come to the conclusion, that there is anything improper about the transfer of the petitioner. He was a junior clerk, and he was transferred to Malvan on account of exigencies of business. In effecting such transfer the requirements of the Award were duly observed. The fact, that the workman could not continue his study in Bombay, cannot stand in the way of the Bank exercising its legitimate management function of transferring its employees in the interests of its business. I find, that the transfer of the employee is *bona fide* and is not an act of victimisation, and is not *mala fide*, as contended on his behalf.

10. However it is urged, in support of the contention on behalf of the workman, that the Manager at the Fort Bombay Branch was prejudiced against him, and that, therefore, he was interested in getting him out of Bombay, and that this shows, that the order of transfer is improper, and is not *bona fide*. The evidence of Shri Prabhakar Rao is, that, while he was working in Bombay, he was changed from department to department frequently. On the 9th March he attended the office at 10 A.M., and was working in Discount Department. He was writing a T.T.O., and completed it, and then he was working on D.D. Payment Department. He worked till 6 P.M. He was asked to work overtime. He said, that he could not as he had to attend classes. Next day he was put in charge of the Cash Department. On the 11th Saturday at 1 P.M. a customer came, and tendered cash. As it was late, and as he had closed the cash, Shri Prabhakar Rao refused to receive the cash. The Officer asked him to receive the cash, but he replied, that, as he had closed the cash, he would not receive it. Next, Monday, he got a memo, transferring him to Malvan. He states in cross-examination, that at Fort Office he was trained in Bills Department. He worked in other departments also. He worked on the 10th March in D.D. Payment Department, and there were heavy arrears in that department. By 6 P.M. the work had not been completed. The Accountant asked him to complete the work. When he informed the Accountant, that he had to attend classes, he was permitted to go. The evidence of M.W. 1, Shri Upadhyaya, the Sub-Manager, Fort Branch, is, that he has to distribute work among the clerks, and get the work done. He worked as Manager in the absence of the permanent incumbent. He was

training Shri Prabhakar Rao in different departments. He used to make him work in place of absentees, so that he could pick up work. On the 9th he made Shri Prabhakar Rao work in D.D. Bills payable. The Accountant told him, that he had not completed the work even by 6 p.m. Then he was transferred on the 10th to the Receiving Department, which was less heavy. The contention on behalf of the workman, that he was being shifted from department to department by Shri Upadhayaya, that this shows that the Sub-Manager bore ill will against him, that Shri Upadhayaya wanted to get rid of him from Bombay, and, that therefore, he was transferred to Malvan, is far fetched and untenable. As explained by the Sub-Manager, the workman was being trained in different departments. He had to gather experience in the branch. The contention, that because the employee was being shifted from department to department with a view to train him in the different branches of work in the branch, *mala fides* is established, cannot be sustained. It was the duty of the Manager to get business of the Bank done, in the various departments. In fact, Shri Shamsuddin, W.W. 4, who is a clerk in the Fort Branch, says, that the employees have to do in the Bank whatever work is entrusted to them. They are recruited as clerks. Nobody is taken in as a Cash Receiving Clerk. It is thus clear, that no clerk is recruited for any particular type or branch of work. It is the duty of the Manager to train them in different departments, so that the work and business of the Branch might be done efficiently. As has been proved by the evidence of the Manager, Shri Prabhakar Rao could not complete the work in the D.D. Bills Payable Department even by 6 p.m. on the 9th March. Therefore, it was, he was changed as Receiving Clerk. In this connection I may refer to the evidence of M.W. 2, Shri G. Bhagwan, Accountant incharge of D.D. Bills Payable. According to his evidence, on the 9th March Shri Prabhakar Rao did not complete the work by 6 p.m. The witness asked him to work overtime, and complete the work but Shri Prabhakar Rao refused. The Manager asked Shri Prabhakar Rao to do the work, and claim overtime wages. Even then Shri Prabhakar Rao said, "my time is over. I am going." So saying, he left. He would not stay and complete the work, because he was allowed to go at 6 p.m. on the plea of his attending classes. The contention, that Shri Upadhayaya bore personal ill will against the petitioner, that he was interested in getting the workman transferred, and that this shows *mala fides* on the part of the Bank, cannot be upheld.

11. The next argument, that has been urged before me is the incident, that took place on the 11th. As already mentioned, Shri Prabhakar Rao was working in the Cash Receiving Department on the 10th March. On the 11th March also, which was a Saturday, he was working in that department. The evidence of the Manager is, that at about 1 p.m. a customer complained, that Shri Prabhakar Rao had refused to receive cash even though it had been tendered before 1 p.m. Therefore, he ordered Shri Prabhakar Rao to receive the cash, but he would not. He gave a memo. to Shri Prabhakar Rao on the 13th, and Ext. M/8 is the reply of the workman. This contains the remarks of the Accountant. In Ext. M/8, dated the 13th March, 1961, Shri Prabhakar Rao wrote, that he denied the allegations made in the letter, dated the 11th March, 1961, and asserted, that he had been very polite towards the people, with whom he came in contact. The remarks of the Accountant are to the effect, that the complaining party approached the Accountant a little after 1 p.m. on the 11th March, 1961, with a complaint that the cash was refused to be received by the Cashier, that he immediately requested the Cashier to receive it, that this was refused, and that thereupon he treated the cash as late cash, and entered in the counter-foil, that it had been received late for that day's credit. Evidence has been led on behalf of the workman to show, that in fact the customer tendered the cash sometime after 1 p.m. The evidence of Shri Prabhakar Rao is, that the cash was tendered at 1-06 p.m. He told the customer, that he could not receive it, as it was beyond office hours, and as he was counting the money. He denies the suggestion, that at 12-45 the customer Shri Dharam Singh came and tendered the money, and that he refused it. This evidence is sought to be corroborated by that of other witnesses, Shri Bhagme, M.W. 2, an employee in the Fort Branch, says, that he was working in the S.B. Section on the 11th March, 1961, that he came down to go to the lavatory at 1 p.m., that he passed the cash cabin, that no-one was there, that, when he came back, he saw Shri Prabhakar Rao, talking to a customer, and telling him to bring an order for receiving cash after office hours from the officers. The witness explains that he remembers the day, because Shri Prabhakar Rao was given a memo, calling for explanation. He is also a member of the Union. The evidence of Shri Shamsuddin, W.W. 4, is, that he had been put in the Cash Department in the past, but he was not in the Cash Department on 10th and 11th March. It may be taken, as proved by the evidence, that the

customer approached the petitioner with a request to receive the cash just after 1 P.M. on Saturday, and that he refused to receive it. It was however the height of insubordination for the petitioner to refuse to receive the cash even when directed to do so by the Manager or the Accountant. In the circumstances, the Accountant had no option except to state, that the cash was received late for that day's credit. I am unable to hold, that the workman was transferred because of the incident on the 11th. It will be seen, that the workman was transferred under the directions of the Head Office, which is situated at Udipi, far away from Bombay. I have referred to the allegations in the claim statement, that the confirmatory letter, dated the 14th March, 1961 from the Head Office was received by him at Malvan. It is too much to hold, that the Head Office thought of transferring him even on the 13th, because of the incident on the 11th. The contention on behalf of the workman, based on the incident on 11th, is also untenable, and must be rejected.

11. It has next been contended, that there was no dearth of business in Bombay, and that the fact, that one of the employees of the Bombay Branch was transferred is proof of *mala fides*. The evidence of Shri Eknath Pai, W.W. 3, is, that he came back from leave on 15th March, even prior to the expiry of the leave, and that he got the letter Ext. W/7, recalling him. When he returned from leave on the 15th, he found the atmosphere "complex" in the office, because Shri Prabhakar Rao had been transferred from the Fort Branch. The evidence of Shri Shamsuddin is, that he had taken medical leave on account of low blood pressure, and that he came back from leave on the 9th. The evidence of the Manager is, that there was shortage of staff at Malvan, owing to absenteeism. Therefore, Shri Prabhakar Rao had to be sent there. Two clerks were recalled from leave, because of the shortage of staff. It is not possible to hold, that Shri Prabhakar Rao was transferred for reasons other than exigencies of business. The Head Office had the right to choose, whom they had to transfer, and to fill the vacancy in Malvan, and by no means can it be held, that they acted *mala fide* in choosing Shri Prabhakar Rao.

12. On an examination of the entire evidence, and various circumstances of the case, I am of opinion, that the transfer of the petitioner is in accordance with the conditions of service, and the provisions of the Sastry Award, and it was effected *bona fide*, and on the ground of exigencies of business. It is not *mala fide*, or an act of victimisation for the union activities of the petitioner, as contended on his behalf. I find accordingly.

Issue No. 3

13. On my findings, as above, the workman is not entitled to any relief.

14. In the result, the petition is dismissed. No order as to costs.

15. An award is passed accordingly.

(Eleven pages).

The 29th September, 1961.

(Sd.) E. KRISHNA MURTI,  
Central Government Labour Court, Delhi.

[No. 55(14)/61-LRIV.]

G. JAGANNATHAN, Under Secy.

New Delhi, the 25th October, 1961.

**S.O. 2619.**—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment being a factory known as Messrs Swadeshi Manufacturing Syndicate Limited, Ludhiana, have agreed that the provisions of the Employees' Provident Funds Act, 1952, (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This Notification shall be deemed to have come into force on the 1st day of July, 1954.

[No. 7(8)61-PF-II.]

*New Delhi, the 28th October 1961*

**S.O. 2620.**—In exercise of the powers conferred by section 7 read with section 3 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (46 of 1948), the Central Government hereby makes the following Scheme further to amend the Coal Mines Provident Fund Scheme, 1948, namely:—

1. This Scheme may be called the Coal Mines Provident Fund (Amendment) Scheme, 1961.

2. In the Coal Mines Provident Fund Scheme, hereinafter referred to as the said Scheme,—

(1) in Paragraph 2—

(a) after clause (c), the following clause shall be inserted, namely:—

“(cc) “Chief Inspector of Mines” has the meaning assigned to it in sub-section (1) of section 5 of the Mines Act, 1952 (35 of 1952);

(b) for clause (g), the following clause shall be substituted, namely:—

“(g)” “excluded employee” means an employee,

(i) who, having been a member of the Fund once, withdrew the full amount of his accumulations in the Fund on permanent retirement after attainment of the age of 50 years or on retirement on account of total incapacity due to bodily or mental infirmity; or

(ii) who is employed in a coal mine belonging to or under the control of the National Coal Development Corporation Ltd., on pay and under conditions of service which for the time being are similar to those obtaining in Railway establishments, or under conditions of service which entitle him to pension under the Civil Rules or under conditions of service drawn up by the said Corporation;

Provided that nothing contained in this clause shall debar an employee who is already a member of the Fund from continuing his membership after becoming an excluded employee under this clause, till such time as he is permanently absorbed by the said Corporation in any cadre excluded from the scope of this Scheme by virtue of this clause; or

(iii) who is employed as a labourer of a contractor for building, brick-making or tile making;”

(c) after clause (1) the following clause shall be inserted, namely:—

“(11) “temporary disablement” means a condition resulting from a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment in a coal mine, which requires medical treatment and renders the employee temporarily incapable of work and which entitles such employee to compensation under the Workmen’s Compensation Act, 1923 (8 of 1923);”

(2) in paragraph 25—

(a) for the heading “Class of employees required to join the Fund”, the heading “Class of employees required to join the Fund in respect of any quarter prior to the 1st January 1962” shall be substituted;

(b) in sub-paragraph (1), after the words and figures “thirtieth of September 1948”, the following shall be inserted, namely:—

“but before the first of January 1962”;

(3) After paragraph 25, the following paragraphs shall be inserted, namely:—

“25-A. *Class of employees required to join the Fund after the 31st December 1961.*

(1) Every employee in a coal mine to which this Scheme applies, other than an excluded employee, shall be required to join the Fund and become a member immediately after the end of the month following any month after December 1961 in which he completes attendance in a coal mine for not less than 105 days if an underground employee, and 130 days if a surface employee, during a period of six months.

(2) Any dispute as to whether an employee is an underground or a surface employee shall be referred to the Coal Mines Provident Fund Commissioner whose decision thereon shall be final.

- (3) The period of six months in which the qualifying attendance is required to be put in under sub-paragraph (1) shall be reckoned from the beginning of August 1961 or from the beginning of the month in which an employee is appointed in the coal mine concerned, whichever is later. Where an employee fails to qualify for membership of the Fund in the first spell of six months, subsequent spells shall be worked out by eliminating the first month of the previous spell and adding up thereto another month at the end;

Provided that in the case of an employee other than a monthly-paid employee, the attendance put in in a week which spreads over two calendar months shall be deemed to relate to the calendar month in which the week ends".

"25B. Allowance for leave, etc.

- (1) For the purpose of paragraph 25A, any kind of leave, other than maternity leave, granted by the employer to an aggregate of 21 days in a calendar year or, where an employee has availed himself of earned leave (including accumulations), the actual number of days of such leave plus five days, days of lay-off as defined in clause (kkk) of section 2 of the Industrial Disputes Act, 1947, days of idleness caused by any lock-out which is illegal under section 24 of the Industrial Disputes Act, 1947 and days of absence from work on account of compulsory attendance in a court of law shall count as days of attendance.
- (2) If on any working day in any qualifying period of six months an employee is on maternity leave or is unable to attend work owing to temporary disablement, the number of days for which such employee must put in attendance to qualify for the membership of the Fund under paragraph 25A shall be reduced by seventy per cent of such working days if such employee is an underground employee and by eight-five per cent of such working days if such employee is a surface employee.

*Explanation.*—In calculating the said percentages of such working days a fraction less than half shall be disregarded and not less than half shall be counted as one.

- (3) If in any qualifying period of six months, any day other than the weekly holidays is observed as a closed holiday in any coal mine, the number of days for which the employee must put in attendance in such period to qualify for the membership of the Fund under paragraph 25A shall be reduced in respect of such coal mine, by one if there be not more than two such closed holidays, by two if there be more than two but not more than four such closed holidays and by three if there be more than four such closed holidays. In the event of a dispute as to whether a day is a closed holiday or not, the decision of the Chief Inspector of Mines shall be final.
- (4) If any question arises whether an employee is required to become or continue as a member of the Fund or as regards the date from which he is required to become a member, the decision thereon of the Coal Mines Provident Fund Commissioner shall be final."
- (4) In paragraph 27—
- (a) For the second proviso to sub-paragraph (1) the following proviso shall be substituted, namely:—

"Provided further that nothing contained in this paragraph shall be deemed to require contribution in respect of any member for any period before the commencement of the Coal Mines Provident Fund (Amendment) Scheme, 1961, during which he was a non-contributory member and contributions in respect of a member who, immediately before the commencement of the said scheme, was a non-contributory member, shall be payable in respect of each month or week, as the case may be, for the whole or part of which he is employed after such commencement."

- (5) For paragraph 38, the following paragraph shall be substituted, namely,—
- "38. (1) Every employer shall send by registered post or through a messenger to the Commissioner a return in duplicate—
- (i) in Form 'H' annexed hereto within six weeks from the end of every quarter commencing on or before the 1st October 1961, but not

before the 1st October 1948, intimating the particulars of employees who qualified for the membership of the Fund during the quarter to which the return relates;

(ii) in Form 'H' (Revised) annexed hereto within fifteen days from the commencement of every month from February 1962 onwards, intimating the particulars of employees who qualified for membership of the Fund under paragraph 25A during the preceding month

(2) Declarations in Form 'A' furnished by persons qualifying for the membership of the Fund shall accompany the returns in Form 'H' or Form 'H' (Revised), as the case may be.”;

(6) after paragraph 38, the following paragraph shall be inserted, namely:—

*“38-A. Maintenance of abstract attendance register for the purpose of deciding eligibility of employees to become members of the Fund.*

Every employer shall maintain, in respect of every person employed by him who is not a member of the Fund on the day the Coal Mines Provident Fund (Amendment) Scheme, 1961, comes into force and also in respect of every person employed by him after such day who gives a negative declaration in Form 'Q' in terms of paragraph 45, an abstract attendance register in Form 'S' annexed hereto and shall make entries therein every month from August 1961 or the month in which the employee is appointed, whichever is later, until the employee qualifies for membership of the Fund or ceases to be employed in the coal mine as the case may be:

Provided that the register in Form 'S' for an employee shall be preserved by the employer till the expiry of at least one year from the month in which his name is included in the return in Form 'H' (Revised) or he leaves service, as the case may be.”;

(7) after Form 'H' the following Form shall be inserted, namely:—

“Form 'H' (Revised)”.

(8) after Form 'R' the following Form shall be inserted, namely:—

“Form 'S'”.

## FORM H (Revised)

Name and Address of Coal Mine. ....

Regd. No. of Coal Mine.....

[illegible]

Date.....

Signature of Manager of Coal Mines.

*Abstract attendance Register for Eligibility to become member of the Coal Mines Provident Fund*

FORM 'S'

Name of employee..... Reference to Declaration in form 'Q'..... see paragraph 38-A of the C.M.P.F. Scheme  
 Father's, Husband's name ..... (3) Qualified for membership of the .....  
 Designation ..... C.M.P.F. in the month of .....  
 Ticker/other identification No. .... (3) Serial No. of Form 'H' (Revised) .....  
 Category of employment ..... Underground/surface(2) ..... where name shown.  
 Date of appointment ..... 19..... (3) Date of leaving service..... 19.....

		Year 19....								Year 19....								Year 19....
		Allowance for								Allowance for								
1																		
MONTH	Actual attendance (1)	Leave	Forced idleness/days of lay off	Illegal lock out	Compulsory attendance in Court	Maternity leave	Temporary disablement.	Closed holidays	Total attendance	Actual attendance (1)	Leave	Forced idleness, days of lay off.	illegal lock out	Compulsory attendance in Court	Maternity leave	Temporary disablement	Closed holidays	Total attendance
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
January																		
February																		
March																		
April																		
May																		
June																		

Verified. Contribution started from ..... 19....

(2) Under charges have been reported to commissioner.



	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
July																			C.M.P.F. Inspector
August																			Dated.....19..
September																			
October																			
November																			
December																			
<i>Total attendance</i>																			
January	19..	to June	19..	August	19..	to January	19..	January	19..	to June	19..								
February	19..	to July	19..	September	19..	to February	19..	February	19..	to July	19..								
March	19..	to August	19..	October	19..	to March	19..	March	19..	to August	19..								
April	19..	to September	19..	November	19..	to April	19..	April	19..	to September	19..								
May	19..	to October	19..	December	19..	to May	19..	May	19..	to October	19..								
June	19..	to November	19..					June	19..	to November	19..								
July	19..	to December	19..					July	19..	to December	19..								

### INSTRUCTIONS

- (1) In the case of employees other than monthly paid employees, attendance put in during the wage-periods ending in a calendar month shall be deemed to be the attendance for that month.
- (2) Delete portion not applicable.
- (3) To be filled up when the worker qualifies for membership of the Fund or leaves service, as the case may be.
- (4) The register would be closed when the employee qualifies for membership of the Fund or leaves service and no entry should be made there-after.

[No. 2(107)/56-PFI.]

**S.O. 2621.**—In pursuance of sub-paragraph (1) of paragraph 22 of the Employees' Provident Funds Scheme, 1952, and in supersession of the notification of the Government of India in the late Ministry of Labour No. S.R.O. 396, dated the 29th January, 1957, the Central Government hereby appoints the Regional Provident Fund Commissioner, West Bengal, as Secretary to the Regional Committee for the State of West Bengal as constituted under paragraph 4 of the said Scheme in the notification of the Government of India in the late Ministry of Labour No. S.R.O. 1278 dated the 27th June, 1953.

[No. 10/9/61-PF.II.]

P. D. GAIHA, Under Secy.

*New Delhi, the 25th October, 1961.*

**S.O. 2622.**—In pursuance of section 17 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Amalgamated Selected Khas Jharia Colliery and Selected Jharia Colliery and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
CALCUTTA.

REFERENCE No. 7 of 1961.

**PARTIES:**

Employers in relation to Amalgamated Selected Khas Jharia Colliery and  
Selected Jharia Colliery

AND

Their workmen.

**PRESENT:**

Sri L. P. Dave, Presiding Officer.

**APPEARANCES:**

*For the Employers.*—Shri D. Narsingh, Advocate.

*For the Workers.*—Shri Shankar Bose, Member of Central Executive Committee, Colliery Mazdoor Sangh, Dhanbad

**AWARD.**

*Dated, 11th October, 1961.*

By their order No. 2/243/60-LRII, dated 27th December, 1960, the Government of India in the Ministry of Labour and Employment referred the dispute existing between the Employers in relation to the Amalgamated Selected Khas Jharia Colliery and Selected Jharia Colliery and their workmen in respect to the question about the dismissal of seventeen workmen mentioned in the above order for adjudication to the Industrial Tribunal at Dhanbad. By a subsequent order No. 4/90/61-LRII, dated 9th June, 1961, the proceedings in relation to the above dispute were transferred from Dhanbad Tribunal to this Tribunal for disposal according to law.

It appears that seventeen workmen were dismissed by the Management on the ground that they had remained absent without leave. The workmen concerned urged that they were prevented from working by certain people. After holding an enquiry, the management held that the workmen had wilfully absented themselves and dismissed them. Hence this reference.

At the hearing before me, the parties have produced a memorandum of settlement. Under the terms thereof, the workmen do not press for the reinstatement of the above workmen; on the other hand, the management have agreed to pay certain amounts to the different workmen according to the length of their service. I have gone through the record of the case and I think the terms of compromise are fair and reasonable.

I, therefore, record the settlement and pass an award accordingly.

L. P. DAVE, Presiding Officer.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
CALCUTTA.

Camp:—DHANBAD.

REFERENCE No. 7 OF 1961.

**PARTIES:**

Employers in relation to Amalgamated Selected Jharia and Selected Khas Jharia Collieries, P.O. Jharia.

AND

Their workmen represented by the Colliery Mazdoor Sangh, Dhanbad.

**JOINT PETITION OF SETTLEMENT**

The parties aforesaid most respectfully beg to submit as follows:

1. The parties have come to an amicable settlement between themselves on terms hereinafter stated.

2. The management agree to pay to the workmen concerned at the rate of Rs. 150 for those who have put in one year's service inclusive those who have put in more than six months' without completing a year of their service and Rs. 200 to those who have put in two years' service.

3. The above payment shall be made within 15 days from the date of the enforcement of the award in the matter.

4. The workmen have no further claim against the management (except dues if any for their services prior to their leaving their duties).

5. Parties respectfully pray that this Hon'ble Tribunal may be graciously pleased to give its award in terms aforesaid.

And for this the parties, shall, as in duty bound ever pray.

Dhanbad,

*Dated the 11th October, 1961.*

FOR THE WORKMEN.

(SHANKAR BOSE),

Member of Central Executive Comm.

Colliery Mazdoor Sangh, Dhanbad.

FOR THE EMPLOYERS.

D. NARSINGH,

Advocate.

[No. 2/243/60-LRII.]

*New Delhi, the 31st October 1961*

**S.O. 2623.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act, from Shri Parameshwar Shaw, Loyabad Colliery.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD.**

APPLICATION No. 99 OF 1960

(arising out of Ref. No. 27 of 1960)

Shri Parameshwar Shaw . . . . . Applicant

vs.

Manager, Loyabad Colliery . . . . . Opposite Party

In the matter of a complaint under section 33A of the Industrial Disputes Act, 1947,

**PRESENT :**

Shri Salim M. Merchant,—Presiding Officer.

**APPEARANCES:**

*For the complainant*—Shri Lalit Barman, Secretary, Bihar Koyla Mazdoor Sabha,

*For the opposite party*—Shri S. S. Mukherjee, Advocate.

**STATE:** Bihar.

**INDUSTRY:** Coal.

*Dated: Camp: Bombay, 20th October 1961.*

## AWARD

This is a complaint, filed on 13th December 1960, under section 33A of the Industrial Disputes Act, against the dismissal on 25th November 1960 from service of the applicant, Shri Parameshwar Shaw, winding engine khalasi of the Loyabad Colliery of the opposite party. The complaint is that his dismissal is illegal as it was in violation of section 33 of the Industrial Disputes Act, inasmuch as the opposite party had dismissed him from service during the pendency of the proceedings in Reference No. 27 of 1960, without complying with the provisions of section 33(2) (b) of the Act. The Decision in Reference No. 27 of 1960 is dated 31st October 1960 and was published in the Government of India Gazette, Part I, Section 1, dated 26th November 1960 at pp. 255-256.

2. In its written statement and at the hearing, the opposite party has raised a preliminary legal objection against the maintainability of this complaint. The legal objection is that Reference No. 27 of 1960 did not arise out of any industrial dispute but was only for the removal of a difficulty as to the interpretation of the provisions of the Award of the All India Industrial Tribunal (Colliery Disputes), regarding the categorisation of 'traffic'; that there could not be any dispute between the opposite party and its workmen regarding the categorisation of "traffic" as this category was, and is, non-existent in the Loyabad Colliery, where the applicant was employed; that there was no demand by the workmen or on their behalf at any time regarding the categorisation of 'Traffics' which could have given rise to any 'industrial dispute', and that the question referred to the Industrial Tribunal for its decision in Reference No. 27 of 1960, was not an industrial dispute, nor there was any "pendency" of the same as contemplated under the Industrial Disputes Act.

3. Before discussing the legal objection, it is necessary to state that the Reference No. 27 of 1960 was a reference made to the Presiding Officer, Central Government Industrial Tribunal, Dhanbad, by the Central Government under section 36A of the Industrial Disputes Act, 1947 (Act XIV of 1947), because in the opinion of the Government, doubts had arisen whether the category of 'Traffic' should be placed in grade II or III in appendix XVI under the Award of the All India Industrial Tribunal (Colliery Disputes), as modified by the decision of the Labour Appellate Tribunal. It is admitted that in the Loyabad Colliery, with which we are concerned, there is no category of 'Traffic'.

4. In support of his legal objection Shri S. S. Mukherjee, the learned Advocate for the Opposite Party, has argued that a reference under section 36A of the Industrial Disputes Act only provides a remedy for removing doubts and difficulties with regard to the interpretation of an Award and that the proceedings under section 36A do not arise out of an industrial dispute and are, therefore, not proceedings in an industrial dispute as contemplated by section 33 of the Industrial Disputes Act. He has urged that there is no pendency of any proceeding in an industrial dispute, as contemplated by section 33, in a reference under section 36A of the Act, and in support he has relied upon section 20 of the Industrial Disputes Act which deals with the commencement and conclusion of proceedings and he has pointed out that the proceedings in a reference under section 36A do not come within the purview of section 20. He has relied upon the Award of the late Shri G. Palit, Presiding Officer of the Central Government Industrial Tribunal, Dhanbad (in application No. 93 of 1960 in Reference No. 27 of 1960) (Gazette of India, dated 7th January, 1961, at pages 146-147), in which he had upheld a similar objection against the maintainability of a complaint under section 33A, which had been filed during the pendency of Reference No. 27 of 1960. In that case the complainant was a medical assistant in the Noonoodih Sitpur Colliery and Shri Palit held that he was not a workman concerned in Reference No. 27 of 1960 as required by section 33(1)(a) as, "he had nothing to do with traffic or their cause. He did not raise the dispute nor was the dispute raised by others on his behalf. He does not stand to be hit by the Award, or its subsequent clarification under section 36A of the Act. So not only he is not directly concerned by the decision, but even indirectly he is not affected by it. So, whether a broad or a narrow interpretation is given to the expression "concerned in the dispute" occurring in section 33(1) of the Act, the applicant is unconcerned. He is not interested in the result of the decision under section 36A of the Act." In that Award, Shri Palit went further and held that whether the narrow interpretation to the term "workman concerned" occurring in section 33 as was given by the High Court of Bombay in the case of the New Jehangir Vakil Mills Ltd. (1958 II LLJ p. 537), or the broader interpretation given by the Madras High Court in the case of the Newton Studios Ltd. vs. Ethirajulu (1958 I LLJ p. 63) and the Andhra High Court in the case of the Andhra Scientific Company Limited vs.

Seshagiri Rao (1959 II LLJ p. 717) and eventually by the Hon'ble Supreme Court of India, in the case of the New India Motor's (1960 I LLJ p. 551) is adopted, at best, all "Traffics" concerned in the establishment would be bound by the decision in Reference No. 27 of 1960. Since that reference was an omnibus reference, he would go to the length of holding that traffics, "occurring anywhere in the colliery which was impleaded in the proceeding would be hit and the decision cannot only be limited to the establishment where the dispute had arisen." Shri Palit further observed—

"But to carry the effect of the decision to cover all other classes of workmen who do not stand to be hit by the decision about the traffics, namely, to a medical assistant, would be equivalent to stretching it beyond its legitimate limits. This is not permissible. So I find that the present applicant is not a workman concerned in the dispute. The termination of his service does not offend section 33(1)(a) of the Act. Section 33 not being infringed section 33A petition does not lie. So it is not legally maintainable and stands rejected. I cannot go into the question of merits as I have no jurisdiction. No order as to costs. This is my award."

5. Shri Lalit Burman, appearing for the workman, has, on the other hand, relied upon another judgment of Shri G. Palit in another application under section 33A of the Act (Application No. 94 of 1960 *Latu Ram vs. East Bhagatdi Colliery*) also arising out of Reference No. 27 of 1960, where Shri Palit had held that the proceedings of the reference under section 36A were proceedings in an industrial dispute because the question whether "Traffics" were entitled to be placed in grade II or grade III of the Colliery Award, was a matter concerning the terms of their employment and as such an industrial dispute; he went further and held that as the workmen had not acquiesced in the interpretation which the management had out on the Colliery Award's direction viz., that "traffic" should be placed in grade III, the industrial dispute, which had been raised before the Colliery Tribunal had not been resolved. To use Shri Palit's own language, "So, the industrial dispute which was canvassed for determination in the Coal Award was not resolved. It was still subsisting. Accordingly, the Government referred this matter again to the Tribunal just for making a decision after hearing the parties whether under the said award 'the traffic' should get grade II or grade III wages. The decision which this Tribunal gave was binding on the parties under section 36A (2) of the Act. Thus, the dispute was eventually resolved by the finding in the said section 36A proceeding. So, can it be said that the dispute had already ended with the Coal Award and was not subsisting at the time the reference under section 36A was decided? I cannot accept the contention of the learned lawyer of the management that the Tribunal under section 36A has its jurisdiction confined only to interpretation of the Award. Though it cannot travel beyond the award which it seeks to interpret, it is required to give a decision after hearing both the parties. I stress the word "decision". This means an adjudication as distinguished from interpretation. The only difference in the present case is that this adjudication unlike elsewhere is not free and unrestricted. It should be restricted to the four corners of the award already given."

6. With regard to the contention of the management, that because there was no "traffics" in the colliery there was no existing or apprehended dispute which required to be resolved, Shri Palit held that as Reference No. 27 of 1960 was an omnibus or industrywise dispute all collieries in which such dispute might arise in the future were included. Shri Palit was of the opinion that the Hon'ble Supreme Court's decision in *State of Madras v. C.P. Sarathy* (1953 I LLJ p. 174) supported this view, as also the provisions of sub-section (5) of section 10 of the Industrial Disputes Act, 1947, under which the appropriate Government may include in the reference all groups or establishments whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment or group. For these reasons, Shri Palit rejected the employer's contention that the complainant was not a workman concerned in the dispute as there was no traffic in that colliery, and held that as disciplinary action was taken against the complainant during the pendency of the proceedings before the Tribunal in respect of an industrial dispute (Reference No. 27 of 1960, under section 36A of the Act), the complaint was maintainable.

7. Of these two orders, I am inclined to agree with the Order of the late Shri G. Palit in Application No. 94 of 1960. Shri Palit applied the same order to several other applications under section 33A, which had been filed during the pendency of Reference No. 27 of 1960.

8. The Hon'ble Supreme Court in the case of *New India Motors vs. Morris (K.T.)*, (1960 I LLJ page 551) rejected the narrow interpretation that the term

"workmen concerned in the dispute," occurring in section 33(1)(a) should be limited only to such of the workmen who are directly concerned in the dispute in question but that it would, "include all workmen on whose behalf the dispute had been raised as well as those who would be bound by the award which may be made in the said dispute." Their Lordships held that section 18 of the Industrial Disputes Act was relevant for the purposes of construing the meaning of the expression "workmen concerned in the dispute", as it dealt with the persons on whom the awards are binding. Their Lordships stated that section 18(3) provided *inter alia* the parties on whom the award would be binding and observed:—

"It is thus clear that an award passed in an industrial dispute raised even by a minority union binds not only the parties to the dispute but all employees in the establishment or part of the establishment, as the case may be, at the date of the dispute and even those who may join the establishment or part subsequently. Thus the circle of persons bound by the award is very much wider than the parties to the industrial dispute. This aspect of the matter is also relevant in construing the material words in section 33(1)(a)."

Their Lordships further observed:—

"Even as a matter of construction pure and simple there is no justification for assuming that the workmen concerned in such disputes must be workmen directly or immediately concerned in the said disputes. We do not see any justification for adding the further qualification of direct or immediate concern which the narrow construction necessarily assumes. In dealing with the question as to which workmen can be said to be concerned in an industrial dispute we have to bear in mind the essential condition for the raising of an industrial dispute itself, and if an industrial dispute can be raised only by a group of workmen acting on their own or through their union, then it would be difficult to resist the conclusion that all those who sponsored the dispute are concerned in it. As we have already pointed out this construction is harmonious with the definition prescribed by section 2(s) and with the provisions contained in section 18 of the Act. Therefore, we are not prepared to hold that the expression "workmen concerned in such dispute" can be limited only to such of the workmen who are directly concerned with the dispute in question. In our opinion, that expression includes all workmen on whose behalf the dispute has been raised as well as those who would be bound by the award which may be made in the said dispute."

8. Now, Reference No. 27 of 1960 was made by the Government because in the opinion of the Central Government a difficulty had arisen as to the interpretation of the Award of the All India Industrial Tribunal (Colliery Disputes). Now, that dispute was an industrial dispute between the employers in relation to the coal mines throughout India and their workmen. It was admittedly an industry-wise dispute, and the Loyabad Colliery, the opposite party in this complaint, was one of the collieries concerned in that dispute. Though there may not be a category of traffics in that colliery the award of the All India Industrial Tribunal (Colliery Disputes) would apply to traffics when they are engaged in future in the Loyabad Colliery. Under section 18(3) of the Industrial Disputes Act, the Majumdar award would be binding not only on those who were employed at the time of the award, but also on those who would subsequently be employed in the collieries which were parties to the collieries disputes. There is no doubt that the original dispute before the All India Industrial Tribunal (Colliery Disputes) was also sponsored by the workmen employed in the Loyabad Colliery, of whom the complainant was one and it must, therefore be held that he was one of the workmen on whose behalf that dispute had been arisen. Being a workman concerned in the original dispute and as the reference under section 36A is a reference for clarification of certain doubts and difficulties as to the proper interpretation of that award, he must be treated as a workman concerned in the proceedings of Reference No. 27 of 1960. In my opinion the expression "workmen concerned in the dispute" has a much wider connotation than what the learned Advocate for the company seeks to place upon it. As I see it, the relevant section is not section 20 of the Industrial Disputes Act on which Shri S. S. Mukherjee, the learned Advocate for the opposite party, has sought to rely, but as pointed out by the Supreme Court, the relevant sections are section 2(s) and 18(3) of the Industrial Disputes Act. Shri Mukherjee has contended that because section 20, which deals with the commencement and conclusion of proceedings, does not refer to proceedings under section 36A and as the Tribunal does not in proceedings under section 36A give an award, but only a decision, the proceedings

under section 36A cannot be deemed to be proceedings in "an industrial dispute." I am not prepared to accept this contention. In my opinion the definition of the term "Award" as contained in section 2(b), would include a decision on an application under section 36A, as that is really a final determination of an industrial dispute. In my opinion, the final determination of the dispute relating to the proper categorisation of "traffics" with regard to their wages would be made by the application of the decision under section 36A. To that extent that decision must be treated as an award. In my opinion the proceedings in a reference under section 36A must also be deemed to be proceedings in an industrial dispute because those proceedings arise out of a doubt or difficulty with regard to the correct interpretation of an award already made. Inasmuch as the proceedings seek to clarify or interpret a given award they must also be deemed to be proceedings in an industrial dispute. The decision in a proceeding under section 36A ultimately finalises the dispute which was sought to be settled by the earlier award of the Tribunal. In the ultimate analysis therefore what was sought to be finalised by reference under section 36A in Reference No. 27 of 1960 was an industrial dispute with regard to the proper wages for traffics which was one of the subject matters of the industrial dispute referred to under section 10 of the Act to the All India Industrial Tribunal (Colliery Disputes). Therefore, a proceeding which seeks to interpret an award of an Industrial Tribunal can also be deemed under the Act to be proceedings in an industrial dispute because *inter alia*, industrial dispute as defined by section 2(k) means any dispute or difference between employers and employees with regard to the terms of employment or the conditions of labour of any person. Here what is sought to be determined is the industrial dispute with regard to what are the proper wages for traffics and in my opinion that would be an interpretation with regard to the subject matter of an industrial dispute as defined by section 2(k) of the Act and therefore in my opinion the proceedings under section 36A must also be held to be proceedings in an industrial dispute.

9. I may state that the award of Shri Palit in Application No. 93 of 1960 in Reference No. 27 of 1960, was in respect of a medical assistant and reading the decision it looks as if he was treated on a different footing from other categories of workmen who would be admittedly workmen as defined by section 2(s) of the Industrial Disputes Act 1947. Evidently the medical assistant was treated as falling within the purview of the term "any person" appearing in section 2(k) of the Act.

10. In this view of the matter, I hold that the proceedings in Reference No. 27 of 1960, were proceedings in an industrial dispute in which the complainant was a workman concerned and as the complainant was dismissed during the pendency of the proceedings of the dispute without the provisions of section 33 of the Act having been complied with, there has been a violation of section 33 of the Act and this complaint is maintainable.

11. On the merits, it is admitted that the applicant Parameshwar Shaw, at the time of his dismissal, was working as a winding engine khalasi. It is further admitted that on 8th October, 1960, which is the date of the incident, there was over-winding of the cage in the colliery and consequently a charge-sheet was issued against him on the same day charging him with negligence in duty under the colliery's standing order 27(6) in that he did not check the winding engine brakes and all appliances under his charge to ensure that all safety devices and other mechanisms were in order and as a result overwinding took place on 8th October, 1960, in the second shift. He was suspended pending enquiry into this charge-sheet. In his explanation to the charge-sheet Parameshwar Shaw stated that the controller of the engine operating the cage was out of order and he had intimated this fact to Shri R. B. Banerjee the electrical fitter who had opened the controller and found that two contacts were in good condition but the rest were out of order. He, however, directed Parameshwar Shaw to work the cage with only two contacts. According to the complainant, R. B. Banerjee the electrical fitter came to the room at about 10 p.m. and again changed three contacts. The middle contact was not fitted properly and he pointed out this defect to the electrical fitter but he was told that it was alright and he continued to raise loads in the cage. But at the raising of the third tub there was overwinding of the cage. It is admitted that the cage got overwound to the extent that it went and hit the bell on the top. An enquiry on this charge-sheet was held by the management at which five prosecution witnesses and three defence witnesses were examined. It is admitted that cross-examination of witnesses was allowed. The management's contention was that there was evidence to establish that Parmeshwar Shaw had placed a wooden block between the teeth of the automatic tripping gear, thus rendering the automatic device inactive. It is the company's case that there would have been automatic tripping of the cage which would

have prevented its going up and hitting the bell, if the automatic tripping had not been rendered inactive by Parmeshwar Shaw having placed a piece of wood in the teeth of the automatic tripping gear. I may state here that on 15th August, 1961, accompanied by the representatives of the management and Parmeshwar Shaw, I inspected the winding engine room of No. 10 pit and saw the working of the automatic tripping mechanism. It was then demonstrated to me how when a piece of wood or a bolt is placed in the teeth of the tripping mechanism it is rendered inactive and that only when the piece of wood or the bolt is removed the tripping mechanism operates, but in that event the winding engine khalasi would have to re-set it in order to make it function again. It is to avoid this trouble of having to re-set the mechanism, that the winding engine khalasi avoids to remove the bolt or piece of wood, thereby rendering the operation of the tripping mechanism inoperative. I also found that whether all the contacts of the control were functioning or not would not affect the working of the tripping mechanism. Those two mechanisms are entirely different.

11. The contention of the complainant at the enquiry and in the proceedings before me, was that the overwinding took place not because of the negligence of the complainant but because the electric contracts were not in proper working condition. In support Shri Lalit Burman has relied upon the admitted fact that in regard to the incident of 8th October 1960 a charge sheet was also served on the electrical fitter charging him with negligence in duty in that he allowed the winding engine khalasi i.e. Parmeshwar Shaw, to operate the defective engine resulting in overwinding causing stoppage of work from 10 P.M. to 5 A.M. and it is argued by Shri Lalit Burman that the responsibility for the overwinding was therefore that of the electrical engineer who, admittedly, had been found guilty of the charge levelled against him and who had been dismissed for that misconduct.

12. But it is clear from the records of the domestic enquiry held by the management that there was evidence to establish that a piece of wood had been inserted in the teeth of the automatic tripping gear and the management's case is that if that had been done, then irrespective of whether the contracts were functioning properly or not, it would have rendered the automatic device, by which overwinding would have been prevented, inactive. I have carefully considered the statements made at the domestic enquiry and it appears to me that there was sufficient evidence for the management to come to the conclusion that it was Parmeshwar Shaw who had put the wooden piece in the teeth of the automatic tripping gear and thus rendered it inactive. If this wooden piece had not been so placed, even if there had been overwinding, the cage would have overwound only a few inches or feet and would not have overwound to the extent of hitting the bell at the extreme end. It is not denied that the overwinding that took place would have resulted in serious injuries to workmen down in the pit. The misconduct must, therefore, be considered to be serious enough to justify the dismissal of the complainant. The management in inflicting the punishment of dismissal has also taken into consideration the previous misconducts some of them of negligence, of which Shri Parmeshwar Shaw had been guilty.

13. On these and the other facts recorded at the hearing and at the enquiry held by the employers I am satisfied that the dismissal of the complainant was justified on merits. I am satisfied that the domestic enquiry held was fair and fulfilled the requirements of rules of natural justice at which the complainant was given every opportunity to establish his defence. In my opinion, no case has been made out to justify my interfering with the finding of the management.

14. In the result, the complaint is dismissed. I make no order as to costs.

SALIM M. MERCHANT,

Presiding Officer,  
Central Government Industrial Tribunal, Dhanbad.

[No. 1/87/59-LRII.]

**S.O. 2624.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Kurban Ali, Mechanical Fitter, Ashakuty/Fularitand Colony.



BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD.

Application No. 103 of 1960 arising out of Ref. No. 27 of 1960

Shri Kurban Ali, Mechanical Fitter—Applicant.

Vs.

The Agent, Ashakuty/Fularitand Colliery—Opposite party.

In the matter of a complaint under section 33A of the Industrial Disputes Act, 1947.

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

APPEARANCES:

For the applicant: Shri Lalit Barman, Secretary, Bihar Koyla Mazdoor Sabha.

For the opposite party: Shri S. S. Mukherjee, Advocate, with Shri M. R. Banerjee, Agent and Chief Mining Engineer, Ashakuty/Fularitand Colliery.

STATE: Bihar.

INDUSTRY: Coal.

Dated Camp: Bombay, 20th October, 1961

AWARD

This is a complaint purporting to be under section 33A of the Industrial Disputes Act, 1947, against the retrenchment of the applicant from the services of the opposite party from 1st September 1960. The complaint is that the retrenchment is illegal and wrongful and in breach of section 33 of the Industrial Disputes Act, 1947, as the complainant was a workman concerned in an industrial dispute being Reference No. 27 of 1960—which was admittedly pending before this Tribunal on the date of the complainant's retrenchment without permission or approval having been obtained by the opposite party from the Tribunal under section 33 of the Industrial Disputes Act, 1947. The complainant also states that the retrenchment was bad and illegal as the opposite party did not fulfill the obligations imposed on them by section 25F of the Industrial Disputes Act before retrenching the complainant.

2. The opposite party has raised the following preliminary legal objections—against the maintainability of the application:—

- (a) That the complainant was not a workman concerned in Ref. No. 27 of 1960 which was not a proceeding arising out of an industrial dispute, but was a reference under section 36A for removal of doubts regarding certain provision of the Award of the All India Industrial Tribunal (Colliery Disputes) relating to a category of workmen known as "Traffic", of which category there is not a single workman in this colliery and therefore the complainant cannot be deemed to be a workman concerned in the dispute.
- (b) That there had been no violation of section 33 of the Industrial Disputes Act, 1947, by the opposite party as the retrenchment of the applicant was not as a measure of punishment.
- (c) That in any case as out of abundant caution the opposite party had in fact filed an application under section 33(1)(b) of the Act—being application No. 30 of 1960—for the permission of the Tribunal to retrench the applicant before the present application was filed, this complaint cannot be maintained.

3. It is now well settled law that a complaint under section 33A can only lie if there has been a violation of section 33 of the Act and all the 3 contentions urged by the opposite party are that there has been no violation of section 33 by the opposite party.

4. The first objection urged against the maintainability of the complaint is the same as had been urged by Shri S. S. Mukherjee, the learned Advocate of the opposite party, in another application—application No. 99 of 1960—which also arose out of the proceedings in Ref. No. 27 of 1960 and I have in my award of even date in that application held that the proceedings in Ref. No. 27 of 1960 were proceedings in an industrial dispute and for reasons stated therein, I also hold that the applicant herein was a workman concerned in that dispute. I, therefore, reject the first legal objection urged by the opposite party.

5. The complainant, however, appears to be on a firmer ground with regard to the second legal objection urged by him. The objection is that as this complaint is against the retrenchment of the applicant, it was not necessary for the opposite party to have either obtained the permission of the Tribunal under section 33(1)(b) or its approval under section 33(2)(b) of the Industrial Disputes Act. From the statements made in paras 4, 5 and 6 of the application, it is quite clear that the complaint is directed against the retrenchment of the complainant. Now, the opposite party's contention is that for retrenching a workman it is not necessary for the employer to take either the permission or the approval of the Tribunal as section 33 of the Act does not cover cases of retrenchment, but only covers cases of discharge or punishment for any misconduct. Under section 33(1)(b) the misconduct must be connected with the dispute and in that case the permission of the Tribunal would be necessary and under section 33(2)(b) the misconduct must be one not connected with the dispute in which case the approval of the Tribunal must be obtained subject to the two conditions prescribed under the proviso to that sub-section. But in either case it must be a misconduct which results in discharge or punishment by dismissal or otherwise. The contention of Shri S. S. Mukherjee is that in a case of retrenchment there is no misconduct involved and therefore the provisions of section 33 do not apply and there was, therefore, no violation of section 33 by the opposite party. No doubt, the opposite party had on 2nd September 1960 filed an application purporting to be under section 33(1)(b)—being application No. 30 of 1960 in Ref. No. 27 of 1960 for the permission of the Tribunal to retrench the applicant, but that application without being decided on merits was disposed of by an order made by the Tribunal on 11th March 1961, as it held that on the expiry of 30 days after the date of publication of the award in Ref. No. 27 of 1960 in the Gazette of India, the proceedings in that reference had concluded and the Tribunal had become *functus officio* to deal with application No. 30 of 1960. But the company has stated that that application had been filed out of abundant caution and that on a proper construction of section 33, it was not necessary for it to apply for either the permission of the Tribunal under section 33(1)(b) or for the approval of the Tribunal under section 33(2)(b) for the retrenchment of the applicant. In support of this contention Shri S. S. Mukherjee has relied upon the order of Shri J. A. Baxi, learned Industrial Tribunal, Bombay in the case of the National Industrial Works, Bombay, and Jamnadas Bhauji and others (1958 II LLJ pp 518-519) where in an application under section 33(2)(b) of the employer company for approval of its action in proposing to retrench 50 workmen of the company on account of non-availability of raw materials, it was held that:—

"Approval of the Tribunal is necessary in those cases where in accordance with clause (b) a workman has been punished or discharged for misconduct. In the present case no doubt the company discharged these workmen, but they were discharged not for any misconduct but as a result of closing down of the second shift. This amounts to retrenchment of the workmen. Even assuming for the sake of argument that such closure and retrenchment were not bona fide, even then no misconduct is alleged against the opponents, nor are they in a position to allege that they were discharged for any supposed misconduct. Their discharge by way of retrenchment does not come under clause (b) and consequently the proviso to that clause cannot apply. The present application therefore does not lie."

In the present application it is not the case of the union that the applicant was retrenched for any misconduct on his part. The union no doubt urges *mala fides* and non-fulfilment of the provisions of section 25F of the Industrial Disputes Act, 1947, by the opposite party, but that would not bring the case within the ambit of misconduct on the part of the applicant for the application of the provisions of clause (b) of either section 33(1) or section 33(2) of the Act. I am, therefore, of the opinion that this complaint is not maintainable as there has been no violation of section 33 of the Industrial Disputes Act, by the opposite party by the retrenchment of the applicant. I, therefore, uphold the second legal objection urged against the maintainability of the complaint.

7. In view of my finding on the second legal objection it is not necessary to deal with the third legal objection.

8. I may make it clear that in this case I am not deciding either the legality or the justification on merits or otherwise of the retrenchment of the complainant.

I am only holding that this complaint is not maintainable because there has been no violation of section 33 by the opposite party, and consequently I have no jurisdiction to deal with it.

9. In the result, the complaint is disposed of as not maintainable.

No order as to costs.

SALIM M. MERCHANT,

President Officer,

Central Government Industrial Tribunal, Dhanbad.

[No. 1/87/59-LRII.]

## ORDERS

*New Delhi, the 25th October, 1961*

**S.O. 2625.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Burria No. 2, Mica Mine of Chrestien Mica Industries, Domchanch, District Hazaribagh, Bihar and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

### SCHEDULE

Whether the dismissal of Shri Shiv Murat Dubey, a Pump Khalasi of Burria No. 2 Mica Mine is justified? If not, to what relief the workman is entitled?

[No. 20/12/61-LRII.]

*New Delhi, the 27th October 1961*

**S.O. 2626.**—Whereas the Central Government is of opinion that an industrial dispute exists between M/s. Mohammad and Sons, Gypsum Contractors to M/s. Associated Cement Companies Limited, Pali-ki-Havelli, Inside Sojati Gate, Jodhpur and their workmen employed in Bhadwasi Gypsum Mines in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Delhi, constituted under section 7A of the said Act.

### SCHEDULE

1. What should be the scales of wages for various types of operations carried on in the establishment and from what date the same should apply?

2. Whether the workmen are entitled to following facilities:—(a) Paid weekly holidays (b) Festival holidays (c) Casual leave and (d) Provident Fund and if so, at what rate?

3. Whether the workmen are entitled to any bonus for the years 1958-59 and 1959-60 and if so, at what rate?

4. Whether the workmen are entitled to any housing facility or house rent in lieu thereof and if so, at what scale?

[No. 23/17/61-LR. II.]

*New Delhi, the 28th October 1961*

**S.O. 2627.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the East Kumardhubi Colliery and their workmen in respect of the matter specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the dismissal of Sarvashri Siwamuni Mahato (Bankman), Ram Lalk Mahato (Haulage Khalasi) and Gama Thakur (Under-ground trammer) by the management of East Kumardhubi Colliery was justified. If not, to what relief are they entitled?

[No. 2/206/61-LRII.]

A. L. HANDA, Under Secy.

New Delhi, the 27th October, 1961

**S.O. 2628.**—In pursuance of sub-section (1) of section 16 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government has appointed Shri T. P. Khosla, I.A. & A.S., as Chief Accounts Officer, Employees' State Insurance Corporation, with effect from the forenoon of the 1st September, 1961.

[No. F. HI-5(7)/60.]

B. R. SETH, Dy. Secy.

New Delhi, the 27th October 1961

**S.O. 2629.**—The following proposals for fixing, in exercise of the powers conferred by clause (a) of sub-section (1) of section 3 read with clause (iii) of sub-section (1) of section 4 of the Minimum Wages Act, 1948 (11 of 1948), minimum rates of wages payable to the categories of employees specified in the Schedule annexed hereto and employed on the construction or maintenance of roads or in building operations in the collieries in the private and public sectors, other than those under the control of the National Coal Development Corporation Limited, Ranchi, are published as required by clause (b) of sub-section (1) of section 5 of the said Act for the information of persons likely to be affected thereby and notice is hereby given that the said proposals will be taken into consideration on or after the 15th January 1962.

2. Any objection or suggestion which may be received from any person with respect to the said proposals before the date specified above will be considered by the Central Government.

3. The notification of the Government of India in the Ministry of Labour and Employment No. SO 2369, dated the 20th September, 1961, is hereby cancelled.

#### SCHEDULE

Categories of employees										All inclusive minimum rates of wages per day
										Rs. nP.
<b>In coal mines</b>										
Unskilled	.	.	.	.	.	.	.	.	.	2.66
Semi-skilled	.	.	.	.	.	.	.	.	.	2.92
Skilled	.	.	.	.	.	.	.	.	.	3.75
<b>In Development Areas</b>										
Unskilled	.	.	.	.	.	.	.	.	.	1.50
Semi-skilled	.	.	.	.	.	.	.	.	.	2.25
Skilled	.	.	.	.	.	.	.	.	.	3.00

Note.—(1) The all inclusive minimum rates of wages per day in the case of coal mines include the payment for the weekly day of rest and so separate payment would be necessary on this account.

Note.—(2) The above rates are applicable to labour engaged by contractors also.

[No. LWI(I)7(3)/60.]

**S.O. 2630.**—In exercise of the powers conferred by sub-section (1) of section 3, read with section 4 and sub-section (2) of section 5 of the Minimum Wages Act, 1948 (11 of 1948), the Central Government, after considering the advice of the Committee, appointed under sub-section (1) of section 5 of the said Act, hereby fixes minimum rates of wages payable to the employees specified in the Annexure and directs that this notification shall come into force on and from the 10th November, 1961.

ANNEXURE

**I. Initial wages fixation for certain categories of employees employed in the Indian Veterinary Research Institute, Izatnagar/Mukteswar.**

Categories of employees	All inclusive minimum rates of wages	
(1)	(2)	
	IZATNAGAR	MUKTESWAR
	Rs.	Rs.
1. Mates : Dhobi	80 p.m.	83 p.m.
2. Mazdoors	65 p.m.	68 p.m.
<i>Casual Labour</i>		
1. Masons, Carpenters and other skilled workers	3 per day	3 per day
2. Mazdoor	1.50nP. per day	1.50nP. per day

**II. Initial wage fixation for employees employed in the sugarcane Sub-station, Karnal, Punjab**

Categories of employees	All inclusive minimum rates of wages per day
	Rs. nP.
1. Literate Mazdoor	2.50
2. Adult men	2.00
3. Adult Women	1.75

**III. Initial wage fixation for certain categories of employees employed in the Port Trusts of Madras and Calcutta.**

**MADRAS PORT TRUST**

Categories of employees	All inclusive minimum rates of wages per month
<b>SECRETARY'S DEPTT.</b>	
1. Stenographer	Rs. 150
<b>ACCOUNTS DEPTT.</b>	
1. Stenographer	150
2. Upper Division Clerk	150
3. Senior Shroff	150
<b>MEDICAL DEPARTMENT</b>	
1. Senior Store Keeper	150
2. Stenographer	150
3. Dark room Assistant	90
4. Attender	75

Categories of employees	All inclusive minimum rates of wages per month
5. Ward Orderlies . . . . .	70
6. Theatre Dressers . . . . .	80
7. Cooks . . . . .	70
8. Launderer . . . . .	70

## MARINE DEPARTMENT

1. Lascar (Skin Diver) Grade I . . . . .	110
2. Fireman (Floating Craft) Grade I . . . . .	80
3. Stenographer . . . . .	150
4. Attender . . . . .	75

## TRAFFIC DEPARTMENT

1. Stenographer . . . . .	150
2. Duplicator Operator . . . . .	80

## ENGINEERING DEPARTMENT

1. Progress Chaser . . . . .	150
2. Supervisor Grade II (Plant) . . . . .	150
3. Staff car driver . . . . .	110
4. Diesel Loco Drivers . . . . .	150
5. Stenographer . . . . .	150
6. Drivers, Scotch Derrick . . . . .	150
7. Road Roller Fireman . . . . .	75
8. Messenger . . . . .	70
9. Winder, Grade III . . . . .	110
10. Meter Reader & Tester . . . . .	125
11. Construction Diver . . . . .	150
12. Observers . . . . .	150
13. Mechanics, Grade I . . . . .	150
14. Mechanics, Grade II . . . . .	125

## CALCUTTA PORT TRUST

## SECRETARY'S DEPARTMENT

1. Junior Law Assistant . . . . .	220
2. Lady Health Assistant . . . . .	150

## ACCOUNTS DEPARTMENT

1. Clerk-cum-Cashier . . . . .	110
2. Machine Operator (Hollerith) . . . . .	130
3. Adding Machine Operator . . . . .	130
4. Puncher (Hollerith) . . . . .	110
5. Verifier (Hollerith) . . . . .	110
6. Audit Clerk . . . . .	130

## CHIEF MECHANICAL ENGINEER'S DEPARTMENT

1. 10 ton Electric Scotch Crane Driver . . . . .	132
2. Hydraulic Crane Driver . . . . .	90
3. Electric Crane Driver . . . . .	110
4. Electric Crane Driver . . . . .	90
5. Transporter Crane Driver . . . . .	90
6. Port Lift Driver . . . . .	132
7. Mobile Crane Driver . . . . .	132
8. Mobile Crane Tindal . . . . .	143
9. I C E Fitter Grade A . . . . .	125
10. I C E Fitter Grade I . . . . .	110
11. I C E Fitter, Grade II . . . . .	80

Categories of employees	All inclusive minimum rates of wages per month
Rs.	
DEPUTY CONSERVATOR'S DEPARTMENT	
1. Radio Mechanic . . . . .	195
2. Second Class Diesel Engine Driver . . . . .	110
3. Cook-cum-servant . . . . .	74
STORES DEPARTMENT	
1. Duplication Operator . . . . .	75
2. Adrema Operator . . . . .	75
3. Machine Operator . . . . .	75
4. Delivery Sircar . . . . .	97.50 nP.
5. Driver . . . . .	80

[LWI (1)6(2)/60.]

K. D. HAJELA, Under Secy.

